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MONTANA INDEX OF ENVIRONMENTAL PERMITS

Thirteenth Edition
2002

Montana State Legislature
Legislative Environmental Policy Office
Environmental Quality Council
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ACKNOWLEDGMENTS

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Keep in Mind . . .

This document summarizes portions of Montana law that deal with the use and development of the state's natural resources. It is not, however, a legal document and should not be relied on exclusively to determine legal responsibilities.

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INTRODUCTION

PERMIT INDEX

The *Montana Index of Environmental Permits* is prepared by the Environmental Quality Council staff to provide a complete list of the permits and licenses needed to conduct activities that may affect the state's environment. The permit index lists the permits required, the permitting agencies and the statutes and rules that regulate each permit.

The permit index is **not** a legal document. Anyone planning an activity should contact the administering agency for detailed information before beginning a project.

HOW TO USE THE PERMIT INDEX

Find the relevant activity through the index or table of contents.

On the appropriate page, the entry will look like this.

INCINERATORS - COMMERCIAL MEDICAL WASTE

Permits for commercial medical waste incinerators are required under both the Montana Clean Air Act (see AIR QUALITY PERMITS, p. 34); and the Montana Solid Waste Management Act (see SOLID WASTE - HAZARDOUS WASTE, p. 138). The Board of Environmental Review also has the authority to adopt specific rules regulating medical waste incinerators and to establish additional permit requirements because of the potential health risks from associated substances. The definition of commercial medical waste incinerator does not include hospital or medical facilities that primarily incinerate medical waste generated onsite.

Statute: 75-2-231, MCA

Contact: DEPT. OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

The text in the entry describes the permits and licenses that are required for the activity. ⇨

Listed below the text are the relevant statutes from the Montana Codes (MCA) and rules (Administrative Rules of Montana (ARMs)). ⇨

Finally, the entry list the appropriate agency to contact. ⇨

Next, if the activity is proposed in a specially designated area such as a conservation district or floodplain, check the land designation section located in the first 16 pages of the index. The land designation section is used primarily as a reference to complement information in the activity section.

It is important to note that if the action will affect any species or species habitat protected under the state or federal Endangered Species Acts, special regulations apply. See Nongame and Endangered Species, p. 88.

In addition, a project that may have an impact on the environment is subject to review under the provisions of the Montana Environmental Policy Act (p. 116).

THE STATE REGULATORY STRUCTURE

Montana state government is divided into three branches: legislative, executive and judicial. The laws governing the state are enacted by the Legislature, implemented by the Executive Branch and interpreted by the Judicial Branch.

The state's environmental programs are administered by agencies of the Executive Branch. Each agency is headed by a governor-appointed director who is responsible for the operation of the department. The department is composed of divisions, that are divided into bureaus, that may be further divided into sections.

The Executive Branch agencies administer programs established by statute (contained in the *Montana Code Annotated*) and rule (contained in the *Administrative Rules of Montana*). The principal agencies involved in the issuance or review of environmental permits are the Departments of Agriculture; Environmental Quality; Livestock; Natural Resources and Conservation; Transportation; Fish, Wildlife and Parks; and Public Service Regulation.

FEDERAL AND LOCAL GOVERNMENT PERMITS

Montana administers several federal environmental programs under agreement with the United States Environmental Protection Agency: air and water quality, solid and hazardous waste, and asbestos and pesticide regulation. Montana has also been certified by the U.S. Department of the Interior to administer the federal Surface Mining Control and Reclamation Act (SMCRA). Some federal programs are mentioned in the permit index, but it is important to check with the appropriate state agency to determine if any associated federal permits are required for an activity.

Local governments such as town councils, county commissioners or local health officials also administer permits. For a list of local governing authorities, see Appendix 3.

GENERAL INFORMATION

The permit index is a starting point for finding information on environmental regulations for certain activities. It does not replace assistance from agency personnel who have the responsibility to help citizens comply with Montana's environmental laws. To avoid difficulties, contact the permitting agencies as soon as possible and integrate environmental regulations into your planning process early.

For answers to general permit questions, call the Governor's Office (444-3111), the Environmental Quality Council (444-3742), or the Citizen's Advocate Office (444-3468, 1-800-332-2272).

LAND DESIGNATIONS

Lands with special designations have additional land use and activity restrictions.

AIRPORT AREAS

1. Types of Activities Regulated

Airports owned by a public entity or political subdivision are regulated by three main laws (see A-C below). Generally, the following considerations are important when building near a publicly owned, public use airport: safety of airport users, public safety, character of flying operations, noise levels, terrain, future development of the airport and Federal Aviation Administration regulations.

Privately owned, private use airports are not subject to the following regulations, but must submit a letter of notification for certain actions to the Federal Aviation Administration (FAA). The FAA prescribes the content and form of the letter.

A. Airport Influence Areas: Local governments that have airports must designate airport influence areas around the airport. The designation must be based on FAA rules and guidelines. An airport influence area may not extend more than 10,000 feet from the end of the runway nor may it exceed one mile in width. Within one year of designation, the local government must adopt and provide for the administration of rules restricting the height of structures and trees. A person altering the approved ground and/or airspace within the airport influence area must apply to the appropriate local government for a permit.

Statute: 67-4-101 *et seq.*, MCA

Contact: LOCAL GOVERNMENT
Zoning Board

B. Airport Hazard Regulation: Within two miles of a publicly owned, public use airport or landing field, no structure or tree located within a defined turning zone may have a height of more than one-seventh its distance from the nearest boundary of an airport. A person proposing to erect, establish or maintain any structure or grow any natural object that would exceed this height limit must apply to the appropriate level of government for a permit.

Statute: 67-5-101 *et seq.*, MCA

Contact: STATE AND LOCAL JURISDICTIONAL GOVERNMENT

C. Airport Zoning Act: State or local governments having authority over publicly owned, public use airports may adopt regulations dividing airport hazard areas (areas within two miles of airports) into zones, specifying land uses permitted within each zone and regulating the height of structures and trees. The controlling authority may enact a permitting system in which a variance may be granted if enforcement of the rules would cause unnecessary hardship, the proposed construction is not contrary to the public interest and the new structure does not present an immediate hazard to safe flying conditions.

Statute: Airport Zoning Act, 67-6-101 *et seq.*, MCA

Contact:: STATE AND LOCAL JURISDICTIONAL GOVERNMENT

CONSERVATION DISTRICTS

1. General Requirements

Lands located within a conservation district may be subject to land use regulations designed to conserve soil and water resources and prevent and control erosion. Copies of the land use regulations are available from the district. These regulations are adopted with voter approval through a referendum and are administered by the conservation district supervisors. Once the referendum is enacted, the district supervisors may compel compliance through a petition to district court. Variances awarded upon demonstration of great practical difficulties or unnecessary hardship are allowed.

State law requires a *310 permit* from a conservation district when a private, nongovernmental individual or entity proposes work in or near a stream on public or private land (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 12).

Statute: 76-15-701 *et seq.*, MCA (land use regulations)
75-7-101 *et seq.*, MCA (stream preservation)

Contact: CONSERVATION DISTRICT (see APPENDIX 3 for a list of conservation districts by area); or

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Conservation and Resource Development Division
Conservation Districts Bureau

CONSERVATION EASEMENTS

1. Types of Activities Regulated

A public body or qualified public organization may acquire title to or interest in real property for the purpose of preserving the land's natural, scientific, educational or aesthetic resources. By acquiring this interest or title, the holder establishes a conservation easement on the land whereby the landowner relinquishes to the holder of the easement the right to develop the land or alter its natural character. The terms of the easement may prohibit or limit construction, excavation, surface uses, etc. The existence of a conservation easement should appear on the deed to the property.

Statute: 76-6-201 *et seq.*, MCA
87-1-209, 241 and 242, MCA

Contact: LOCAL GOVERNMENT
County Clerk and Recorder

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Field Services Division

FLOODPLAINS AND FLOODWAYS

1. Types of Activities Regulated

Artificial obstructions and nonconforming uses within a designated floodplain or floodway require a permit from the local governing body or from the Montana Department of Natural Resources and Conservation (DNRC) if local authorities have not adopted rules. Local governments may adopt land use regulations, including floodplain management regulations within sheetflood areas, that may restrict development. If local regulations are not adopted, the DNRC must adopt and enforce minimum standards.

Statute: 76-5-401 through 406, MCA (Floodplain and Floodway Management Act)

Rule: ARM 36.15.601-801

Contact: LOCAL GOVERNMENT (City or County)
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Operations Bureau

2. Application Requirements

The application for a permit for obstructions or uses in a designated floodplain or floodway must be submitted to the local government or the DNRC and must contain maps, plans, profiles and specifications of the obstruction or use of the water course or drainway.

Statute: 76-5-404, MCA

3. Permitting Procedures

Permits for obstructions or uses in a designated floodplain or floodway must be approved or denied within a reasonable time, usually 60 days after the receipt of an application.

Statute: 76-5-405(2), MCA

Rule: ARM 36.15.216

4. Fees

An application fee, set by the local government, is required for a floodplain or floodway obstruction permit.

Statute: 76-5-405(3), MCA

Rule: ARM 36.15.204(3)(b)

5. Criteria

The following criteria must be considered by the local government in evaluating a permit application: danger to life and property by water that may be backed up or diverted by the obstruction or use; danger that the obstruction or use may be swept downstream and cause injury; alternative methods of construction or alteration of obstruction or use which will minimize the danger; the availability of alternate locations; permanence of the obstruction or use; anticipated development in the area; and other factors specified by law.

Statute: 76-5-406, MCA

Rule: ARM 36.15.216

ISLAND PARKS

1. Types of Activities Regulated

To promote the preservation of state-owned island areas, the 1997 Legislature designated undisputed state-owned or state-leased island property as *island parks*. New development is limited to minimal signage noting the designation, latrines approved by the Fish, Wildlife and Parks Commission, bridge footings and pilings, and oil and gas leasing. Improvements and agricultural uses in existence prior to April 30, 1997 are allowed, but further development is limited.

Statute: 77-1-405, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

HERITAGE SITES

ANTIQUITIES PERMITS

1. Types of Activities Regulated

Individuals or organizations proposing to excavate, remove or restore a heritage property or paleontological remains on state-owned land for scientific, educational or mitigation purposes must obtain an antiquities permit from the State Historic Preservation Officer. The preservation officer will consult with the appropriate state land management agency in issuing a permit. Permits may not be granted unless the preservation officer is satisfied that the individuals carrying out the proposed work are qualified to guarantee proper excavation of those sites and objects.

Statute: 22-3-431 through 442, MCA (Montana Antiquities Act)

Rule: ARM 10.121.901-916

Contact: MONTANA HISTORICAL SOCIETY
State Historic Preservation Office

2. Criteria

The heritage value of any historic or prehistoric site identified is determined by the National Register of Historic Places, Criteria for Evaluation.

3. Additional Information

Applicants for licenses or permits are encouraged to provide the permitting or licensing agency with specific information on the legal location of the proposed project, previous land use and land condition. This information assists the agency and the State Historic Preservation Office in determining whether a cultural resource inventory of the proposed area is needed.

HERITAGE SITES

1. Types of Activities Regulated

State actions or state licensed, assisted or permitted actions that have the potential to substantially alter heritage properties or paleontological remains or excavation of heritage properties on state-owned lands are regulated.

In consultation with the State Historic Preservation Office (SHPO), the state agency is required to determine whether a proposed action, initiated by the agency or by an applicant's request for a license or permit, may impact sites, structures or objects on state-owned lands that qualify or would qualify as heritage properties. If the action will affect these properties, the agency must seek ways to avoid or mitigate substantial alterations of the property whenever feasible. These procedures may require completion of a systematic cultural resources inventory, documentation of a property likely to be harmed, consideration of alternative projects, special protective stipulations, project modifications, or denial of the project. Agencies may require applicants for permits or licenses to complete portions of this analysis. The state agency is responsible for insuring that proper procedures are followed. After consultation with the Preservation Office, the agency is responsible for determining how to proceed with the proposed action.

Statute: 22-3-421 through 442, MCA (Montana Antiquities Act)

Rule: ARM 10.121.901-916 (SHPO rules)
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION and the DEPARTMENT OF FISH, WILDLIFE AND PARKS have agency rules; for other agencies contact the agency or the HISTORICAL SOCIETY, State Historic Preservation Office

Contact: MONTANA HISTORICAL SOCIETY
State Historic Preservation Office

HUMAN SKELETAL REMAINS AND BURIAL MATERIALS

1. Types of Activities Regulated

The state Burial Preservation Board must be petitioned for a permit for the removal and/or scientific analysis of human skeletal remains and burial material from any unmarked burial site on state or private land.[1] The Board may issue a permit for limited scientific study of remains and material if it determines that the analyses is scientifically justifiable. In Montana it is presumed that remains and material will be reburied rather than scientifically analyzed. The State Historic Preservation Office reviews and comments to the Board on all permit applications. The Preservation Office also maintains a burial registry and must be contacted in the event of an inadvertent discovery of unmarked human remains.

Statute: 22-3-801 through 811, MCA (Human Skeletal Burial Remains and Burial Site Protection Act)

Contact: MONTANA HISTORICAL SOCIETY
State Historic Preservation Office
State Burial Preservation Board

LAKESHORES

1. Types of Activities Regulated

If a local government has adopted lakeshore protection regulations, a permit is required for any work that will alter or diminish the course, current or cross-sectional area of a navigable lake or its shore. These activities include construction of channels or ditches; dredging of the lake bottom to remove muck, silt or weeds; ponding; filling; and constructing breakwaters or wharves and docks.

Statute: 75-7-201 through 217, MCA

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[1] For skeletal remains or funerary objects excavated before the passage of this act (Human Skeletal Burial Remains and Burial Site Protection Act, 1991), the Montana Repatriation Act provides a hearing process for the repatriation of culturally affiliated remains from unprotected burial sites currently in the possession or control of any state agency, museum or individual. The Act also requires agencies and museums to complete and provide a copy of an inventory of any remains or objects to the state Burial Preservation Board.

Rule: As adopted by local governments

Contact: The local governing body authorized to administer the Subdivision and Platting Act on land adjoining a lake, i.e., a Board of County Commissioners or the governing authority of the appropriate city or town

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Operations Bureau

2. Application Requirements

Specific application requirements are prescribed in regulations adopted by the local government.

3. Permitting Procedures

A. Local Regulations: Contact the local government for specific procedures.

1) The local government must seek the recommendations of the local planning board.

2) The local government may provide a summary procedure to permit work it finds has a minimal or insignificant impact on a lakeshore.

3) The planning board must report its recommendations to the local government on whether the proposed work conforms to the criteria for issuance of a permit, and it may require the applicant to submit additional information prior to making its recommendations.

4) A variance from local regulations may be obtained if an impact statement is prepared and a public hearing held.

B. Time requirements:

Unless the applicant for a lakeshore work permit agrees to an extension, the government must grant or deny the permit within 90 days.

Statute: 75-7-207 and 211 through 213, MCA

4. Fees

Permit fees set by local governments must be commensurate with the cost of administering the permit application. See 75-7-210, MCA for more information.

5. Criteria

The following are minimum requirements and do not restrict a local government from adopting additional or more stringent regulations that may be authorized by other statutes.

The proposed work will not, during construction or its utilization:

1) materially diminish water quality;

2) materially diminish habitat for fish or wildlife;

3) interfere with navigation or other lawful recreation;

4) create a public nuisance; or

5) create a visual impact discordant with natural scenic values as determined by the local government when such values form the predominant elements of the landscape.

6. Additional Information

Landowners may petition the Montana Department of Natural Resources and Conservation to adopt regulations for a particular lake until the local government adopts the necessary regulations.

NATURAL AREAS

1. Types of Activities Regulated

A natural area is one affected primarily by natural forces, with outstanding natural features worthy of preservation and with minimal evidence of human activity. State-owned lands that are controlled or acquired by the Board of Land Commissioners may be designated as natural areas and leased for such purposes. Each area so designated will be leased and managed by a *managing entity* and will be subject to a master plan setting forth specific land use limitations and controls. Activities allowed in natural areas may

include grazing, recreation and snowmobiling. If feasible, the state of Montana will hold the water and mineral rights in order to adequately protect the area.

Statute: 76-12-101 *et seq.*, MCA

Rule: ARM 36.27.209 *et seq.*

Contact: BOARD OF LAND COMMISSIONERS

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

STATE LANDS

1. Types of Activities Regulated

Activities on state-owned land, including the beds of navigable waterways, generally require permits, leases or easements from the Montana Department of Natural Resources and Conservation (DNRC) and approval from the Board of Land Commissioners. See HERITAGE SITES, p. 5; CROPLAND AND GRAZING LEASES, pp. 22 and 24; COMMERCIAL CUTTING OF TIMBER, p. 59 or TIMBER SALES, p. 59; GEOTHERMAL LEASES, p. 40; HYDROELECTRIC POWER DEVELOPMENT, p. 43; MINING, p. 108; GEOPHYSICAL EXPLORATION, p. 124; and OIL AND GAS, p. 125.

In addition, the Montana Department of Fish, Wildlife and Parks and other state agencies should be contacted for information regarding rules and procedures on lands owned or administered by those agencies.

2. Easements

The Board of Land Commissioners may grant easements on state lands for school-house sites or grounds, public parks, community buildings, cemeteries or other public uses upon proper application accompanied by accurate and verified plats. The Board also may grant an easement for right-of-way across any portion of state lands, including the beds of navigable waterways, for a public highway or street, ditch, reservoir, railroad, private road, telegraph or telephone line, or any other public use (see HIGHWAY ENCROACHMENTS, p. 63). Application for an easement on state lands must be made to the DNRC. Compensation must be the full market value of the use of the land, plus any diminution in value of adjacent state lands.

3. Exchange of Land

The Board of Land Commissioners is authorized to exchange state land for private land provided that the private land is of equal or greater value than the state land and approximately equal in area. The Board has a written policy and criteria for considering and processing land exchanges. Prior to the exchange, a public hearing must be held in the county containing the state land. Objections to the exchange may be made at the hearing.

4. Leases

State lands may be leased to any person over 18 years old, heads of families and to associations, partnerships and corporations. When the department receives an application to lease a tract, it will advertise for bids and accept the highest bid, unless the Board determines that the highest bid is not in the best interest of the trust beneficiaries. See *Types of Activities Regulated*, on the previous page, for references to specific types of leases.

Statute: Title 77, Chapters 1-6, MCA

Rule: ARM 36.2.1001 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

5. Recreational Use License

A recreational use license is required for a person 12 years of age or older for general recreational use of state lands. The license is issued for a twelve month period beginning March 1st of each year and expires the last day of February the following year. Special recreational use licenses are available for organized recreational activities, whether for profit or otherwise. This includes all outfitting activity and all activities not included within the definition of general recreational use. See also HUNTING - FISHING - TRAPPING - WILD LANDS AND WILDLIFE PROTECTION, p. 65; and, PARKS AND RECREATION, p. 130.

Lessees of state land can request approval from the DNRC for closure of their leased lands if access would interfere with agricultural or ranching operations. The DNRC may also close certain state lands for a number of reasons, including damage to lands from recreational use or the existence of endangered species. All but emergency closures require public notice and an opportunity for a public hearing.

The fee for a recreational use license is $10: for persons 12 to 17 years of age or 60 years of age and older, the license is $5. A family license is $20.

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

Statute: 77-1-804, *et seq.*, MCA

Rule: ARM 36.25.143 *et seq.*

6. Sales of Land

The Board of Land Commissioners is authorized to sell state lands, with the exception of lands containing valuable deposits of coal, oil, oil shale, phosphate, metals, sodium or other valuable minerals. No person or corporation may purchase more than one section of state land, and this area must not include more than 160 acres of irrigable land. All sales of state lands are conducted through public auction held at the county courthouse of the county in which the lands are located. The current lessee of state land retains a preference right that allows the lessee to match the high bid.

Contact: BOARD OF LAND COMMISSIONERS

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

Statute: 77-2-301 through 351, MCA

Rule: ARM 36.25.128-131

STREAM BEDS - STREAM BANKS - WETLANDS

1. Types of Activities Regulated

A. Private Projects: A private, nongovernmental individual or entity proposing to work in or near a stream on public or private land must apply for a 310 permit from the board of supervisors of the conservation district in which the project takes place. Types of activities that may require a permit include the following: engineering operations for dams, dikes, ponds, ditches,

fences and other construction; stream crossings; bank stabilization projects; irrigation diversions, headgates and pumpsite maintenance; and other activities that alter the condition of a stream or river. The applicant should contact the conservation district (Title 76, Chapter 15, MCA) prior to initiating any activity.

Statute: 75-7-101 *et seq.*, MCA (Natural Streambed and Land Preservation Act)

Rule: ARM 36.2.401, *et seq.*

Contact: CONSERVATION DISTRICT (see APPENDIX 3 for a list of conservation districts by area);
GRASS CONSERVATION DISTRICT;
BOARD OF COUNTY COMMISSIONERS; or

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Conservation and Resource Development Division
Conservation Districts Bureau

B. Public Projects: A state or federal agency, county or city government or other political subdivision, with the exception of irrigation districts, must apply for a Stream Protection Act (also called a 124) permit from the Montana Department of Fish, Wildlife and Parks (DFWP) before beginning a project that may alter the bed or banks of any stream or river in Montana.

Statute: 87-5-501 *et seq.*, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. Permitting Procedures

A. Private Projects: An individual planning a project must contact the conservation district office to obtain a permit application prior to any activity in or near a stream. If a permit is required, a team composed of a district supervisor, a DFWP biologist and the applicant conduct a site inspection. The supervisors have 60 days from the date of application to approve, modify or deny the permit.

Statute: 75-7-111 through 116, MCA

B. Public Projects: An agency planning a project must submit a Notice of Construction (application) to the DFWP at least 60 days before beginning construction. Within 30 days after the department receives that applicant's project plans, it must notify the applicant whether or not the project will adversely affect any fish or wildlife habitat. The department may require modifications to the project and make recommendations for alternative plans. If the applicant refuses to modify the plans, and an agreement can not be reached, an arbitration panel may be appointed by the district court.

3. **Emergencies**

A. Private Projects: No prior notice or approval is necessary for emergency actions taken to safeguard life or property. However, notice must be given to the supervisors or commissioners within 15 days following the emergency action. A team will be called together to evaluate the project.

Statute: 75-7-113, MCA

B. Public Projects: A 124 permit is not required from public agencies for situations requiring emergency response such as ice jams, floods, etc. An emergency is defined as an imminent threat to life or property that could not be forseen.

Statute: 87-5-506, MCA

4. **Other Information and Requirements**

A land use license or easement is required by an entity proposing a project on lands below the low water mark of navigable waters as designated by the Montana Department of Natural Resources and Conservation (DNRC) (see STATE LANDS, p. 10).

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

Under Section 10, federal Rivers and Harbors Act, any structure or work on, over, under or affecting navigable waters requires authorization from the U.S. Department of the Army, Corps of Engineers. Navigable waters in Montana regulated by the Corps, under the Rivers and Harbors Act, include the Missouri River from Three Forks downstream to the Montana-North Dakota border; the

Yellowstone River from Emigrant downstream to its confluence with the Missouri River; and the Kootenai River from the Canadian border downstream to Jennings, Montana.

Under Section 404 of the federal Clean Water Act, a permit is required from the U.S. Department of the Army, Corps of Engineers for the placement of any dredged or fill material in United States' rivers, streams, lakes or jurisdictional wetlands. The U.S. Environmental Protection Agency develops environmental review criteria, reviews projects and has enforcement authority under the Act.

The Montana Department of Environmental Quality must provide 401 water quality certification prior to issuance of Corp of Engineers permits. The certification process is handled internally through agreements between the agencies.

Statute: 33 U.S.C. § 401 *et seq.* (Rivers and Harbors Act)
33 U.S.C.A. § 1251 *et seq.* (Clean Water Act)

Rule: 33 C.F.R. 209 and 40 Federal Register 31319
ARM 17.30.101 *et seq.* (401 certification)

Contact: U.S. Department of the Army
Corps of Engineers
District Engineer

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

A person planning new construction, including, but not limited to, placement of fill, roads, bridges, culverts, transmission lines, irrigation facilities, storage of equipment or materials, excavation and new construction of or additions to mobile homes and residential and commercial buildings must check with the DNRC to determine if the activity is in a designated floodplain or floodway (see FLOODPLAINS and FLOODWAYS, p. 3).

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Operations Bureau

A 318 (formerly 3A) authorization must be obtained from the DEQ prior to initiating a short-term activity that may cause unavoidable short-term violations of state water quality standards (see WATER QUALITY PERMITTING, p. 180). The DFWP may also issue 318 authorizations during the 310 or 124 permitting process.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

AGRICULTURAL SEED

1. Types of Activities Regulated

A license is required from the Montana Department of Agriculture (DOAg), with some exemptions, for:

A. All **facilities in the state that condition**[1] **agricultural seed**, except for a seed grower conditioning only seed from their own production;

B. A **person whose name and address appear on the label of agricultural seed.** A license is not required for a Montana certified seed grower when labeling certified seed from that grower's own production; a person who updates germination test data by affixing to the package of seed a supplemental label bearing new germination data, the lot number and the person's name and address; or a Montana grower who labels seed only of that labeler's own production with a gross annual sales value of 5,000 or less; and

C. A **person who sells agricultural seed** in Montana. A license is not required for a person who sells agricultural seed if that person: only sells seeds in 10 pound packages or less; sells seed with a gross sales value of $1,000 or less a year; sells seed only to a Montana-licensed seed dealer, labeler or conditioner; or is a Montana grower selling only seed of their own production with a gross annual sales value of $5,000 or less.

Statute: 80-5-120, *et seq.*, MCA

Rule: ARM 4.12.3002 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

A license application for a facility that **conditions, labels or sells** agricultural seed is available from the DOAg. The application requests the applicant's name, place of

[1] A conditioned seed is dried, clean, scarified or altered in a way that changes its purity or germination properties.

business and mailing address; the location of each seed conditioning facility if applying for a seed conditioning plant license; a sample label if applying for a seed labeler's license; and a list of persons who may be selling seed for the company. A license is required for each location where seed is located or sold. Licenses must be renewed annually and expire on June 30th.

Statute: 80-5-130, *et seq.*, MCA

3. Fees

Seed conditioning, labeling or dealing license	$50 a year
Out-of-state person selling seed in Montana	$100 a year
Out-of-state person who labels seed that is sold in Montana	$50 a year
Lawn or turf grass seed seller	$50 a year
Montana grower who only sells or labels seeds they have produced	$50 a year

Seed labelers located outside Montana who sell agricultural seed in Montana must report sales and pay an assessment of 15 cents per $100 in gross annual sales. The report and fee are due July 31st for the preceding 12 month period. A 10% collection fee will be assessed if the report is not received prior to the deadline.

Statute: 80-5-130, MCA

Rule: ARM 4.12.3009

4. Additional Information

A label is required on all containers of seed sold in Montana. The labels must be truthful and appropriate to the product and contain specific information required by law.

Statute: 80-5-123, MCA

ANIMAL FEEDING OPERATIONS

1. Types of Activities Regulated

A permit is required from the Montana Department of Environmental Quality (DEQ) for a concentrated animal feeding operation (CAFO) that has the potential to discharge pollution from livestock waste into surface water or ground water. A Montana Pollutant Discharge Elimination System (MPDES) permit is required when the following conditions are met:

The facility meets both of the criteria for an animal feeding operation:

❶ Animals are stabled, confined and fed or maintained for a total of 45 days or more in a 12-month period; and
❷ Crops, vegetation forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the facility.

The facility meets one of the following criteria for a concentrated animal feeding operation:

❶ Contains more than 1,000 animal units;
❷ Contains between 301 and 1,000 animal units and a discharge occurs through a man-made conveyance; or pollutants are discharged directly into state waters that originate outside of the facility and pass over, across, or through the facility; or
❸ Is designated as a CAFO by the DEQ. Criteria for designation by the DEQ are set forth in ARM 17.30.1330.

The facility has the potential to discharge to state waters as defined in section 75-5-103 (25), MCA. State waters include surface or underground: bodies of water, irrigation systems, or drainage systems.

Other permits may also be required depending on the location of the facility. See STREAM BEDS, STREAM BANKS, WETLANDS p. 12; and CONSERVATION DISTRICTS p. 2.

Statute: 75-5-605, MCA

Rule: ARM 17.30.637 and 17.30.1301 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

2. Application Requirements

A CAFO operator applies for a general discharge permit by completing *Short Form B* for concentrated animal feeding operations and paying the application fee. The application form requests information on facility ownership, location, size, type, physical surroundings, as well as waste management, odor and dust control and land application practices. A map must be submitted that shows the location of physical features, drainage patterns, certain water sources and residential areas, as well as the direction of

prevailing winds. See WATER QUALITY PERMITTING, p. 180, for additional information on application requirements and permitting procedures.

3. Fees

The DEQ assesses fees to cover a portion of the costs of implementing the water quality program. For a schedule of fees see ARM 17.30.201.

4. Additional information

A discharge to surface water is allowable only when precipitation causes an overflow from a facility designed, constructed, and operated to contain all process generated waste waters plus the runoff from a 25-year, 24-hour rainfall.

A discharge of pollutants to ground water may only occur when seepage or leachate from a CAFO, combined with the volume of ground water beneath the source, results in a ground water nitrate nitrogen concentration of 7.5 milligrams per liter or less.

COMMERCIAL FEED

1. Types of Activities Regulated

A license must be acquired from the Montana Department of Agriculture (DOAg) by:

A. A person who manufactures commercial feed in Montana;

B. A person who distributes commercial feed in or into Montana; or

C. A person whose name appears on the label of a commercial feed as a guarantor.

D. A license is not required for a distributor who distributes only pet food or specialty pet food (food for pets normally maintained in a cage or tank such as canaries, goldfish, hamsters, etc.), but these products must be registered with the department.

Statute: 80-9-201 *et seq.*, MCA

Rule: ARM 4.12.219 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

A-C. A license application for a facility that manufactures, distributes or is a guarantor for commercial feed is available from the DOAg. The application requests the applicant's name, place of business, mailing address, facility location and an indication of whether the facility manufactures feed, distributes feed, or both. A license is required for each facility, distribution point or point of invoicing. Licenses must be renewed annually and expire on December 31st.

D. To register a pet food or specialty pet food, the applicant must provide their name and address and a standard list of products being registered. Pet foods and specialty pet foods must be registered annually. The registration is valid from January 1st to December 31st.

3. Fees

License Fees: All new applicants must pay a nonrefundable fee of $75 per calendar year for a license for each facility, distribution point or point of invoicing. License renewals are $50. The department may collect a $25 late fee for renewal applications received after January 1st.

Pet Food Registration: The registration fee for each pet food or specialty pet food is $25.

An inspection fee of 18 cents per ton must be paid on all commercial feeds, excluding pet foods and specialty pet foods.

Statute: 80-9-206 *et seq.*, MCA

Rule: ARM 4.12.218

4. Additional Information

A commercial feed must be accompanied by a label containing truthful and appropriate information as it relates to the product and species. Labeling must meet the specific requirements of the statutes and rules.

Statute: 80-9-202, MCA

CROPLAND LEASES ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may lease state lands for general agricultural use. Cropland leases are based on a *crop share rental value* of not less than one-fourth of the annual crop, or the usual *landlord's share* prevailing in the area, whichever is greater. See also GRAZING, p. 24.

Statute: 77-6-501 *et seq.*, MCA

Rule: ARM 36.25.102 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Agriculture and Grazing Management Bureau

2. Leasing Procedures

1) Leases go to the highest bidder, unless the Board determines that this decision is not in the state's best interest.

2) Present leaseholders have a preference right over others seeking to lease the same land. These leaseholders may meet the highest bid made by any applicant by exercising their preference right, and may appeal the bid to the Board if they consider the bid excessive. Present holders may exercise their preference only if they have not subleased the land for more than two years in the term of the lease or more than five years if subleased to a spouse, son, daughter, adopted child or sibling of the lessee. Additionally, the preference is valid only if the lessee has not abused any conditions of the lease.

3) Lease terms are five or 10 years.

Statute: 77-6-201 *et seq.,* MCA

FERTILIZER REGISTRATION

1. Types of Activities Regulated

A. Fertilizer Registration: Each brand and grade of fertilizer and each soil amendment, except unmanipulated animal and vegetable manures, must be registered by or on behalf of the manufacturer with the Montana Department of Agriculture (DOAg) before distribution in Montana.

B. Fertilizer Distribution License: An annual license is required from the DOAg to sell or distribute any type of fertilizer or soil amendment.

C. Anhydrous Ammonia Facilities: Department approval is required for the construction and operation of anhydrous ammonia facilities.

Statute: 80-10-201 and 202 and 80-10-503, MCA

Rule: ARM 4.12.601 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

A. All applications for fertilizer registration must include the brand, grade and guaranteed analysis of the fertilizer; the source of each plant food element guaranteed; the name and address of the applicant; a copy or facsimile of the label and promotional material, if requested; and replicated data verifying claims for effectiveness or agricultural value of a product that is not generally recognized as having the values claimed at the use rates recommended. Registrations expire on December 31st of each year.

B. A license is required for each fertilizer distribution or handling facility, and may be acquired by completing forms provided by the DOAg. Licenses expire on December 31st of each year.

C. Applications for an anhydrous ammonia facility must include written approval from the local governing body or a zoning permit issued by the county or town where the facility will be located. Storage tanks and associated equipment must meet applicable safety and design codes at the time of installation.

Statute: 80-10-201 *et seq.*, MCA

80-10-501, *et seq.*, (anhydrous ammonia)

Rule: ARM 4.12.601, 604, 4.12.704 and 706-710

3. Fees

The fee for registering each fertilizer and soil amendment is $10 and $25 for each specialty fertilizer. An additional $10 fee is required for fertilizers and specialty fertilizers to fund the ground water protection responsibilities of the department.

New applicants for fertilizer distribution licenses, or those failing to renew by January 1st, pay a nonrefundable $75 fee. License renewals received before January 1st are $50.

The DOAg also assesses inspection fees on the tonnage of fertilizer distributed, except for specialty fertilizers and unmanipulated animal and vegetable manures.

Statute: 80-10-103, 201, 202, 207and 80-15-302, MCA

Rule: ARM 4.12.608

4. Additional Information

Commercial fertilizer containers and packaging must be labeled. The labels must be truthful and appropriate to the product and contain specific information required by law.

Statute: 80-10-204, MCA

GRAZING

1. Grazing Districts

1) Preferences and permits for grazing within a grazing district must be obtained from the grazing district directors.

2) A person who wishes to obtain grazing preferences (i.e., the right to obtain a grazing permit from the district) must make an application to the district. Temporary permits may be issued to nonmembers on an annual basis upon application to the district.

3) Transfer of preferences may not be allowed without the written consent of the owner of the property from which the transfer will be made. A transfer

is not effective until approved by the Montana Grass Conservation Commission.

4) Prior to the transfer, a public hearing must be held before the Board of Directors of the district.

5) A person is not required to obtain a permit to graze livestock on land that the person owns or controls within a district if the stock being grazed are kept from running at large in the district and from grazing on any other lands within the district.

Statute: 76-16-310 and 76-16-401 *et seq.*, MCA

Contact: GRAZING DISTRICT DIRECTORS

2. State Leases

The DNRC issues leases, through competitive bidding, for grazing on state lands.

Leasing Procedures

1) When the DNRC receives an application to lease state lands for grazing purposes, it must advertise for bids on the tract. The tract must be leased to the highest bidder unless the Board of Land Commissioners determines that the bid is not in the state's best interest. All bidding is by sealed bid mailed to the department headquarters in Helena.

2) Present leaseholders have a preference right over others seeking to lease the same land. These leaseholders may meet the highest bid made by any applicant by exercising their preference right, and may appeal the bid to the Board if they consider the bid excessive. Present holders may exercise their preference only if they have not subleased the land for more than two years in the term of the lease or more than five years if subleased to a spouse, son, daughter, adopted child or sibling of the lessee. Additionally, the preference is valid only if the lessee has not abused any conditions of the lease.

3) A person bidding for the lease of state lands must deposit with the DNRC a certified check, cashier's check or money order in an amount equal to 20 percent of the annual rental bid for grazing land and an amount equal to $1 per acre for each acre of agricultural land.

4) The rental rate for leasing state grazing lands is based on the appraised animal-unit-month carrying capacity of the land.

5) Lease terms are five or 10 years.

Statute: 77-6-101 *et seq.* and 77-6-201 *et seq.*, MCA

Rule: ARM 36.2.1003 and 36.25.102 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Agriculture and Grazing Management Bureau

3. Federal Leases

The Bureau of Land Management and the U.S. Forest Service issue grazing leases and grazing permits for federal land administered by those agencies.

Statute: Organic Administration Act
Federal Land Policy and Management Act
Public Rangelands Improvement Act
Taylor Grazing Act, as amended

Rule: 43 C.F.R. § 4100, 36 C.F.R. § 222(A)

Contact: U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Resource Area or Field Office

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

NURSERIES

1. Types of Activities Regulated

The Montana Department of Agriculture (DOAg) licenses nurseries to control the spread of plant pests, noxious weeds and exotic plants. Nurseries grossing over $1,000 in annual sales must be licensed. A nursery earning less than $1,000 that submits a notarized affidavit to that effect is exempt from this requirement. The department must

be notified if any nursery stock or material becomes infested. The DOAg may on its own volition conduct an inspection or the nursery may, by giving the department five days notice and paying a fee, request an inspection. A plant inspection certificate may be issued based on the results of the inspection or an inspection survey.

Statute: 80-7-105 *et seq.,* MCA

Rule: ARM 4.12.1405 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agriculture Sciences Division

2. Fees

The license fee for a nursery earning from $1,000 to $3,000 on the sale of nursery stock is $30. For a nursery that earns $3,000 or more on the sale of nursery stock the fee is $95. The late renewal or new applicant fee is an additional $25. Annual plant inspection certificates are $50.

Statute: 80-7-106, MCA

Rule: ARM 4.12.1405

3. Additional Information

The DOAg is authorized to adopt rules for imposing and administering quarantines to control injurious plant pests, plants capable of spreading plant pests, noxious weeds and other exotic plants. The department is also authorized to receive money and impose penalties to fund the program.

Statute: 80-7-401 *et seq.,* MCA (Montana Quarantine and Pest Management Act)

PESTICIDES

1. Types of Activities Regulated

Pesticide Registrations

A. The **manufacturer, formulator, or distributor** of each pesticide distributed, sold, or transported in Montana must register the pesticide

each year with the Montana Department of Agriculture (DOAg). Registrations expire December 31stof the year issued.

Licenses

B. Commercial, noncommercial and government **applicators** must be licensed annually by the DOAg. Farm applicators must obtain special-use permits for restricted-use pesticides. The department routinely inspects pesticide applicators for compliance with pesticide labeling and state and federal statutes.

C. **Pesticide dealers** also must be licensed annually by the department. The DOAg routinely inspects pesticide dealers for compliance with pesticide labeling and state and federal statutes.

Aircraft Registration

D. All pilots must register their aircraft with the Montana Department of Transportation, Aeronautics Division, and certify that they have met all Federal Aviation Administration requirements for aerial pesticide applicators.

Statute: 80-8-101 *et seq.*, MCA (Montana Pesticides Act)
80-15-101 *et seq.*, MCA (Montana Agricultural Chemical Ground Water Protection Act)

Rule: ARM 4.10.101 *et seq.* and ARM 4.11.101 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

DEPARTMENT OF TRANSPORTATION
Aeronautics Division

2. Application Requirements

Pesticide Registrations

A. A person applying to register a pesticide must file a statement with the DOAg that includes the applicant's name and address and the name and address of the person whose name will appear on the label, a complete copy of the pesticide label, the U.S. Environmental Protection Agency registration number if the pesticide is registered and a statement of all

claims to be made for it, including directions for use, the trade and chemical name of the pesticide, and if required by the department, a description of tests and the results upon which the claims are based. The state must accept for registration all federally registered products. However, the state may restrict or prohibit the use or sale of a pesticide to prevent harm to individuals, property, plants, trees, animals or fish.

Licenses

B. The applicant for a **pesticide applicator's license** must file annually with the department prior to pesticide use. The DOAg's application and liability forms must be completed. An operator's license is required for persons employed by a commercial applicator to apply pesticides. A pesticide applicator's and operator's examination or training is also required of each new applicant. Applicants must maintain their qualifications in subsequent licensing years by attending training courses.

Farm applicators qualify for their first permit by either passing a graded written exam or attending a training course approved by the DOAg and taking an ungraded written exam. They must also maintain their qualifications by periodically attending training courses. Farmers must file for a new special-use permit and attend an approved training program every five years.

C. An applicant for a **dealer's license** must file annually with the DOAg and pass an examination administered by the department. Dealers are also required to maintain their qualifications in subsequent licensing years by attending training courses.

D. Individuals applying for a **license for aerial application** of pesticides must certify on the application that they have met all the Federal Aviation Administration and the DOAg requirements for aerial pesticide applicators.

Statute: 80-8-201, 203 through 209, 211 and 80-15-302, MCA

Rule: ARM 4.10.201, 203-209, 401-404 and 501-504

3. **Permitting Procedures**

A. Pesticide Registration

1) The Departments of Environmental Quality (DEQ); Agriculture; and Fish, Wildlife and Parks (DFWP) must review all applications

for registration of an experimental-use permit or registration of a pesticide for special local needs. The departments utilize the same requirements and standards for reviewing registrations as established by the federal Insecticide, Fungicide and Rodenticide Act.

2) The DEQ and DFWP must approve or disapprove applications within 10 days after receipt.

3) If two of the three departments are in agreement with the proposed registration, the DOAg must issue the registration.

Statute: 80-8-201(8), MCA

4. **Fees**

A. The fee for each registered pesticide is $90 annually plus an additional $95 to fund the ground water protection responsibilities of the department. If the application is for emergency exemptions requested by the state, a special local-need registration or an experimental-use permit registration, the fee is $90.

B. The fee for a commercial pesticide applicator's license is $45 annually and $25 for a late renewal. The department assesses an additional $30 fee to fund the state's waste pesticide and pesticide container collection, disposal and recycling program.

The annual fee for a government applicator's license is $75 for each of the first four employees of the government agency, and $20 for each additional employee applicator, not to exceed $600 for an agency.

The fee for a farm applicator permit is $50 for a five year permit.

The fee for pesticide operators is $25 each for the first two operators and $10 for each additional operator.

C. The annual application fee for a commercial dealer's license is $75 and $25 for a late renewal. The annual fee for a government dealer's license is $75.

Statute: 80-8-201, 203 through 209, 213 and 80-15-302(1), MCA

Rule: ARM 4.10.206(4)

5. Criteria for Registration of Pesticides

If it does not appear to the department that the pesticide warrants proposed claims for it or if the article and its labeling do not comply with the Montana Pesticides Act, the department must notify the applicant to allow them an opportunity to make the necessary corrections. If the applicant does not make the corrections, the DOAg may refuse to register the pesticide. The department's decision may be appealed.

Statute: 80-8-201(6), MCA

6. Disposal

Empty containers must be disposed of according to label instructions. This disposal must not cause injury to humans, domestic animals and wildlife, or pollute lakes and streams. Most empty pesticide containers must be triple rinsed, punctured and recycled or disposed of in a sanitary landfill.

Participants in the DOAg's pesticide disposal program pay a fee of $1 per pound for disposal of acceptable pesticides in quantities of 200 pounds or less. The fee for quantities greater than 200 pounds is 50 cents per pound.

Statute: 80-8-111, MCA

Rule: ARM 4.10.1801 *et seq.*

7. Public Notice

The owner or manager of a public building must post a notice at the entryway to a building or room where certain pesticides have been applied that tells the name of the pesticide and a number to call for more information.

Statute: 80-8-107, MCA

BUILDING CODES AND RESTRICTIONS

1. Types of Activities Regulated

The statewide building code applies to all construction throughout the state with the exception of residential structures with fewer than five dwelling units; farm and ranch buildings; private garage and storage structures used only by the owner; mine buildings on mine property regulated under state mining laws and subject to inspection under the federal Mine Health and Safety Act; and certain petroleum refineries, pulp and paper mills and industrial process-related structures, vessels and piping. Municipalities or counties, by adopting local ordinances or resolutions, may make the state building code applicable to these excepted properties. If cities, towns or counties adopt local building codes, enforcement is by local rather than state authorities.

All residential construction, except farm and ranch buildings and garage and storage structures used by the owner, are required to meet energy conservation provisions of the state building code. If the energy conservation codes are not enforced by local or state government for those residential buildings containing less than five dwelling units, the builder must certify to the owner that the building is constructed in compliance with the energy code. A person constructing a new residential building must attach a labeling sticker to the interior electrical panel stating the energy features of that building.

2. Application Procedures

A permit must be obtained from the appropriate authorities before construction can begin.

Statute: 50-60-101 *et seq.*, MCA

Rule: ARM 24.301.101 *et seq.*

Contact: CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF LABOR AND INDUSTRY
Business Standards Division

3. Fees

The various fees required for building, mechanical, plumbing and electrical permits are listed in the Montana Department of Labor rules. Local governments certified to enforce the state building code may establish their own fees.

Rule: ARM 24.301.105 and 170

ZONING

1. Applicability

Before beginning any development or related activity, a person should determine if local zoning regulations exist. Under Montana law, cities, towns and counties may adopt zoning regulations and establish zoning districts for the regulation of land use, density, height and size of buildings, percentage of lot occupied, size of yards, population density, location and use of buildings, etc. If zoning exists, a permit for the development or activity may be required. Application of zoning regulations to various activities and entities is addressed separately in many places in the Montana Codes (MCA).

Statute: 76-2-101 *et seq.* and 76-2-201 *et seq.*, MCA (counties)
76-2-301 *et seq.*, MCA (municipalities)
67-4-101 *et seq.*, MCA (zoning around airports)

Contact: LOCAL GOVERNMENT

LOCAL ZONING COMMISSION

DEPARTMENT OF COMMERCE
Community Development Division
Community Technical Assistance Program

AIR QUALITY PERMITS: STATE

1. Types of Activities Regulated

An air quality preconstruction permit and/or an air quality operating permit are required from the Montana Department of Environmental Quality (DEQ) for the construction, installation and operation of equipment or facilities that may directly or indirectly cause or contribute to air pollution. Exceptions include residential heating units, food service establishments, ventilating systems, motor vehicles, trains, aircraft, equipment for road construction (except stationary sources--permits are required for temporary crushers and asphalt plants) and other sources which emit less than specified amounts. The city or county may administer its own air quality permit program in lieu of part or all of the DEQ's permit program if the program is approved by the Board of Environmental Review.

Statute: 75-2-101 *et seq.*, MCA (Montana Clean Air Act)

Rule: ARM 17.8.701 *et seq.* and 17.8.1201 *et seq.*

Contact: LOCAL GOVERNMENT
Health Department

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

2. Application Requirements

Applicants for air quality preconstruction permits must file the appropriate permit applications with the DEQ on forms supplied by the department at least 180 days before construction begins, or if construction is not required, at least 120 days before installation, alteration or use of the facility begins.

Applicants for air quality operating permits for new *major sources* (as defined by department rule) must submit their applications concurrently with any associated preconstruction permit. Existing facilities required to submit an application under this program must do so on a schedule determined by the DEQ.

Statute: 75-2-211, MCA (preconstruction permit)
75-2-217, MCA (operating permit)

Rule: ARM 17.8.706 and 17.8.1205

3. Permitting Procedures

A. Preconstruction Permits

1) The application for an air quality preconstruction permit is not considered filed until all filing requirements are completed. However, if the DEQ fails to notify the applicant within 30 days that an application is incomplete, the application is considered complete.

2) The applicant must provide public notice in a newspaper of general circulation in the area of the proposed facility. The notice must be made within 10 days before or after the application is submitted. The DEQ will supply the form of the notice.

3) Within 40 days after receipt of the complete and filed application, the DEQ must make a preliminary determination on whether the permit should be issued, issued with conditions, or denied. The department must notify both the applicant and the members of the public who requested notification of its preliminary determination. There is a 15 day comment period after the preliminary determination is issued.

4) The department has 60 days after a completed and filed application is submitted to the DEQ to notify the applicant of its decision. The time period for notification may be extended for 30 days by written agreement of the department and the applicant. Additional 30 day extensions may be granted by the department at the request of the applicant. If an Environmental Impact Statement (EIS) is required, final action must be taken within 180 days if the department prepares the EIS (see MONTANA ENVIRONMENTAL POLICY ACT, p. 116).

5) The applicant may appeal the department's determination to the Board of Environmental Review (BER). Any person adversely affected by the decision to approve or deny the application may also appeal to the BER within 15 days of the department's determination, upon affidavit, explaining the grounds for the appeal.

6) If no appeal is filed, the permit becomes final 15 days after the department's determination. If an appeal is filed, the permit becomes final after any Board or judicial action is final.

Statute: 75-2-211, MCA

Rule: ARM 17.8.706-720

B. Operating Permits

Operating permits must be obtained for all new and existing major sources of air pollution and are subject to the same completeness and appeal procedures as the preconstruction permits. In addition, the application for an operating permit requires more extensive public notification, including the requirement that the applicant notify surrounding states and the U.S. Environmental Protection Agency (EPA). Operating permits must be renewed every five years.

Statute: 75-2-218, MCA

Rule: ARM 17.8.1203-1207

C. Operation of temporary power generation units (terminates July 1, 2005)

The construction or operation of certain temporary power generation units is allowed under certain conditions prior to receiving an air quality permit if the applicant has received a written notice from the DEQ that their application is considered filed. The permit applicant is required to cease construction or operation if, after notification by the DEQ, the applicant has failed to submit the requested information that is necessary to process the permit application. A permit issued pursuant to this legislation expires no later than 2 years from the date of issuance and the temporary power generation unit or units must be removed unless an air quality permit for a permanent operation has been issued. The operation of the units may not violate ambient air quality standards.

Statute: 75-2-211(12), MCA

4. **Fees**

The DEQ assesses an application fee and an operating fee from the applicant to fund the air quality permitting program and to implement and enforce the terms and conditions of the air quality permit.

Statute: 75-2-220, MCA

Rule: ARM 17.8.501 *et seq.*

5. **Criteria**

An air quality permit to construct or operate a new or altered air pollution source can not be issued unless the source is able to comply with the standards, emission limitations and other rules adopted under the Montana Clean Air Act, the applicable regulations and requirements of the federal Clean Air Act and any applicable control strategy contained in the Montana State Implementation Plan. The applicant must also demonstrate that the source will not cause or contribute to a violation of a Montana or national ambient air quality standard.

Rule: ARM 17.8.710

6. **Additional Information**

A. Prevention of Significant Deterioration (PSD)

1) When a major new source of air pollution is proposed to be constructed or modified in an area in compliance with ambient air quality standards, a more stringent review procedure may apply. The review may include one year of preapplication baseline data, control technology review, air pollution impact modeling and other appropriate measures.

2) The DEQ must: 1) advertise in a newspaper of general circulation in the air quality control region affected by the proposed source that an application has been received, the DEQ's preliminary determination, the degree of increment consumption expected from the source, how written comments may be submitted and how the DEQ's final determination may be appealed to the Board; and 2) forward copies of the notice of public comment to the applicant, Region VIII Administrator of the EPA and to area officials and agencies affected by the proposed construction.

Rule: ARM 17.8.801 *et seq.*

B. New Source Review in Nonattainment Areas

Major new or modified sources of air pollution constructing in or near areas that are not attaining ambient air quality standards must meet additional permitting criteria, including obtaining emission offsets and installing control equipment that meets the *lowest achievable emission rate* (LAER).

Rule: ARM 17.8.901-906

C. Medical Waste and Hazardous Waste Incinerators

Permits are required from the DEQ for commercial medical waste and commercial hazardous waste incinerators. Commercial medical waste and commercial hazardous waste incinerators must achieve the lowest achievable emission rates as identified by DEQ rules for dioxins, furans, heavy metals and other hazardous air pollutants to prevent risk to public health. The plan for a commercial hazardous waste incinerator must include a scheme for the cessation of burning if site-specific monitoring determines that inversion conditions, as defined by department rule, exist. If the facility is close to a populated area, the department may require the owner or operator of an existing commercial hazardous waste incinerator or an applicant for an air quality permit for a commercial hazardous waste incinerator to provide telemetering service to the department with an immediate notification system activated when emissions approach or exceed permitted limits.

Statute: 75-2-230 and 231, MCA

Rule: ARM 17.8.701 *et seq.*

A statement disclosing if the applicant has had a record of complaints and convictions for the violation of environmental protection laws is required for the issuance, transfer or alteration of an air quality permit for a commercial medical waste or commercial hazardous waste incinerator. The DEQ may deny an application or impose conditions on a permit based on an applicant's compliance history.

Statute: 75-2-232 and 233, MCA

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

D. Variances

A person may apply to the BER for an exemption from applicable rules governing emissions. The variance may be issued if the Board finds there will be no adverse impact to public health or safety, and that compliance with the rules would be an undue hardship on the applicant. The length of the variance is at the BER's discretion and may be renewed. An applicant for a variance must submit a sum of two percent of the cost of equipment needed to bring the facility into compliance with the rule from which the exemption is sought, but not less than $500 nor more than $80,000.

Statute: 75-2-212, MCA

Rule: ARM 17.8.120

AIR QUALITY PERMITS: FEDERAL

Federal air quality permits are only required for activities on the state's seven Indian Reservations. The state has responsibility for permitting all other facilities, including federal facilities. Air pollution sources in Missoula County are an exception. Missoula County has been granted authority to administer its own air quality permitting program for those air pollution sources that are not subject to federal permitting requirements.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

GEOTHERMAL LEASES

Development of geothermal resources will generally require the appropriation of water (see WATER APPROPRIATIONS - GROUND WATER, p. 173), and may require a Certificate of Environmental Compatibility (see MAJOR FACILITY SITING ACT, p. 48). For general information, contact the Montana Department of Environmental Quality.

GEOTHERMAL LEASES ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may lease state-owned lands, including the beds of navigable streams and water bodies, for the purposes of prospecting, exploration, well construction or production of geothermal resources.

Statute: 77-4-101 *et seq.*, MCA

Rule: ARM 36.25.401 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Permitting Procedures

1) A person applying for a geothermal lease on state lands must submit a completed application on a form supplied by the Montana Department of Natural Resources and Conservation that contains an adequate description of the land. A water right may also be required. See WATER APPROPRIATIONS - GROUND WATER, p. 173 and WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 176.

2) Sale of geothermal leases occurs after receipt of a sufficient number of applications to warrant a sale.

3) A notice of sale must be published in a geothermal trade journal or in two newspapers of general circulation in Lewis and Clark County. Notice must be published for four weeks preceding the sale date. The sale may be offered by competitive bid.

4) A minimum bond of $2,000 is required to protect the state's interest in the resource.

5) The term of a geothermal lease is 10 years. Compensation must be paid to the surface lessee, if any, for damage to the surface or the lease holder's interest.

Rule: ARM 36.25.404

3. Fees

The fee for a geothermal lease application is $25. Rental and royalty charges are determined by the Board but are not less than $1 per acre, not less than 10 percent of the amount or value of steam, heat or energy produced and not more than five percent of any byproduct.

Rule: ARM 36.2.1003, 36.25.404 and 406

HAZARDOUS SUBSTANCES - COMMUNITY RIGHT TO KNOW

1. Types of Activities Regulated

The purpose of the federal Emergency Planning and Community Right to Know Act (EPCRA--also known as SARA Title III) is to provide local governments and the public with information about hazardous substances in their communities in order to encourage and support facility planning in the event of an accidental release or spill.

Under the EPCRA, the governor of each state appoints a State Emergency Response Commission (SERC), which in turn appoints Emergency Planning Districts and a Local Emergency Planning Commission (LEPC) for each district. In Montana, each county is a district, thus there are 56 districts and LEPCs. A person or facility with designated types and quantities of hazardous or toxic substances must compile information on the chemicals it uses, stores and releases into the environment and provide this information to the SERC, the LEPC and the local fire department. The LEPCs receive and maintain information, assist in facility planning and develop a district plan to prepare for chemical emergencies.

Rule: 40 C.F.R. § 301 *et seq.*

Contact: LOCAL EMERGENCY PLANNING COMMISSION

U.S. ENVIRONMENTAL PROTECTION AGENCY
Washington D.C.
EPA Hotline: 1-800-535-0202

DEPARTMENT OF ENVIRONMENTAL QUALITY
Director's Office

HYDROELECTRIC POWER DEVELOPMENT

1. Types of Activities Regulated

Nonfederal hydroelectric power plants on navigable waters of the United States, those which occupy federal land or utilize water power from a government dam, or those which, under certain circumstances, affect the interest of interstate or foreign commerce, must be licensed by the Federal Energy Regulatory Commission (FERC). *Navigable waters* of the United States includes virtually all waters in Montana and the other 49 states. As a result, FERC is the lead agency in the licensing of new hydropower facilities and in the re-licensing of existing facilities. FERC, acting under the authority of the federal Power Act, as amended, and the National Energy Policy Act of 1992, processes and evaluates the federal applications required for all hydropower dams, diversions and other hydropower developments; reviews and analyzes environmental impacts of hydropower projects and determines appropriate mitigation and enhancement measures; and sets requirements governing the sale of the hydropower generation at the wholesale level.

There are six primary subject areas where state regulation of hydroelectric power must be considered in addition to the federal requirements under FERC. These areas (and the responsible state agencies) are:

1) Water rights permits: Contact the Montana Department of Natural Resources and Conservation (DNRC), Water Rights Bureau, (see WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 176).
2) 310 permit for altering a perennial stream: Contact the DNRC, Conservation Districts Bureau or the local Conservation District supervisor (see CONSERVATION DISTRICTS, p. 2).
3) Water quality certification under Section 401 of the federal Clean Water Act: Contact the Montana Department of Environmental Quality.
4) Fish and wildlife impact evaluation (no permit required): Contact the Montana Department of Fish, Wildlife and Parks regional office.
5) Hydropower projects on state land (see below).
6) Hydropower projects on state-owned dams (see below).

In addition, a 404 permit is required from the U.S. Department of the Army, Corps of Engineers for any dredge and fill activity or other work affecting United State's waters or wetlands. Contact the U.S. Department of the Army, Corps of Engineers, (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 12).

Statute: federal Power Act, 16 U.S.C. § 791a *et seq.*

Contact: FEDERAL ENERGY REGULATORY COMMISSION
Office of Hydropower Licensing
Washington D.C.

FEDERAL ENERGY REGULATORY COMMISSION
Regional Office
Portland, Oregon

HYDROELECTRIC POWER DEVELOPMENT ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may grant leases for construction and operation of hydroelectric power sites on state lands to any person, corporation or municipality. See HYDROELECTRIC POWER DEVELOPMENT, p. 42.

Statute: 77-4-201 *et seq.*, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

2. Application Requirements

An application must be presented to the Board for lease or license of a power site on state lands. A preliminary examination of the proposed site's value for development is required. If the investigation requires further proceedings, the Board must publish a notice regarding the proposed lease or license for six weeks in two state newspapers, one of which must be from the affected area. The Board, at its meeting on the proposed site, may consider the original application along with any other filed applications. The Board has the power to reject any or all bids. Acceptance depends on which offer is considered to be the most advantageous to the state. The Board of Land Commissioners may establish any reasonable restrictions and regulations in the lease or license to protect the state and its people. Bid preferences are given to municipalities. The term of the lease can not exceed 50 years.

Statute: 77-4-203 through 211, MCA

HYDROELECTRIC DEVELOPMENT AT STATE-OWNED DAMS

1. Types of Activities Regulated

The Montana Department of Natural Resources and Conservation (DNRC) may lease sites at state water projects which it determines to be feasible for energy generation and

in the best interest of the people of Montana.

2. **Application Procedures**

1) The DNRC must study the economic and environmental feasibility of construction and operation of a small-scale hydroelectric power generating facility on each of its dams, and periodically update the studies. If the department determines that hydroelectric generation at a state-owned dam is feasible based on the study, the department must publish an advertisement soliciting lease applications.

2) Following publication, individuals, public utilities and electric cooperatives have 180 days to submit applications to the department. Applications must include a statement of the capability of the applicant to achieve the annual production output estimated by the department, the estimated time to make the project operational, the bid amount of the royalty and any other information that the department requests.

3) The department will hold a hearing to examine all applications, and must decide whether to accept or reject applications within 180 days after the close of the application period.

4) The DNRC is authorized to hold any federal license, permit or exemption on a project at the department's discretion.

5) The duration of the lease may not exceed the term of the federal permits and may in no case exceed 55 years.

6) If no acceptable applications are received, the department may reject all bids and proceed to develop the hydroelectric generation facility.

Statute: 85-1-501 through 514, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division

INCINERATORS - COMMERCIAL MEDICAL WASTE

Permits for commercial medical waste incinerators are required under both the Montana Clean Air Act (see AIR QUALITY PERMITS, p. 34); and the Montana Solid Waste Management Act (see SOLID WASTE - HAZARDOUS WASTE, p. 138). The Board

of Environmental Review also has the authority to adopt specific rules regulating medical waste incinerators and to establish additional permit requirements because of the potential health risks from associated substances. The definition of commercial medical waste incinerator does not include hospital or medical facilities that primarily incinerate medical waste generated onsite.

Statute: 75-2-231, MCA

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

INCINERATORS - HAZARDOUS WASTE

See SOLID WASTE - HAZARDOUS WASTE, INCINERATORS, p. 141.

INDOOR EMISSIONS - OCCUPATIONAL NOISE

ASBESTOS CONTROL

1. Types of Activities Regulated

The Montana Department of Environmental Quality (DEQ) has the statutory authority to approve course work for accreditation of persons engaged in asbestos abatement projects, for accreditation of persons engaged in an asbestos-related occupation and for control and issuance of asbestos project permits.

Statute: 75-2-501 *et seq.*, MCA

Rule: ARM 17.74.301-405

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

2. Accreditation Requirements

A person seeking accreditation as an asbestos inspector, an asbestos management planner, an asbestos project designer, an asbestos abatement contractor, an asbestos abatement supervisor, or an asbestos abatement worker must submit a properly completed application form, along with a fee, to the DEQ and complete an asbestos-

related training course approved by the department. Accreditation for each of the above asbestos-type occupations must be renewed annually.

Statute: 75-2-502 and 511, MCA

Rule: ARM 17.74.314-316

3. **Permitting Requirements and Procedures**

1) No person in charge of an asbestos abatement project may perform work on any asbestos-containing material which is an integral part of a continuous surface exceeding three square feet or three feet of thermal system insulation per year without a permit.

2) Persons applying for a permit must submit, by certified mail, an application to the DEQ. The application should include 1) a description of the project design for the abatement project, 2) a signed statement that all work will be performed according to federal standards, 3) a list of accredited workers, 4) a signed statement that the removed asbestos will be properly disposed of and 5) the required fee.

Statute: 75-2-501 *et seq.*, MCA

Rule: ARM 17.74.335

4. **Fees**

All persons seeking accreditation or application renewal for an asbestos-related occupation must pay a $125 fee, except for asbestos workers, who must pay a $30 fee. The annual asbestos abatement project permit fee for large facilities is $1,500. Other project fees are based on the percentage of the contract volume.

Statute: 75-2-503 and 511, MCA

Rule: ARM 17.74.401

INDOOR AIR QUALITY - OCCUPATIONAL NOISE

1. Types of Activities Regulated

The Montana Department of Labor and Industry (DLI) has the authority to regulate occupational exposure to noise and certain hazardous chemicals in work places that are under the jurisdiction of state and local governments. The federal Occupational Safety and Health Administration (OSHA) regulates noise and exposure to certain hazardous chemicals in all privately owned work places. The DLI does not require permits for the operation of machinery that may emit pollutants into an enclosed work area.

Statute: 50-70-112, MCA

Rule: ARM 17.74.101 (occupational noise)
ARM 17.74.102 (occupational air contamination)

Contact: DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety Bureau

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration

RADIATION CONTROL

1. Types of Activities Regulated

The U.S. Nuclear Regulatory Commission licenses users of byproduct materials, source materials and special nuclear materials in Montana. A number of record-keeping and handling requirements apply.

The Montana Department of Public Health and Human Services (DPHHS) has statutory authority to register and regulate machine sources of ionizing radiation (i.e., x-rays, accelerators, etc.). Registration of these machines is required of the owner after acquisition of the machine and prior to its use. Registration forms are available from the department. A number of record-keeping and use requirements also apply.

In addition, the DPHHS has statutory authority to license users of naturally occurring and electronically produced radionuclides but does not operate a licensing program at this time.

Statute: 50-79-201 *et seq.*, MCA

Rule: ARM 37.14.301-302, 306-307 and 37.14.501 *et seq.*

Contact: NUCLEAR REGULATORY COMMISSION

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Quality Assurance Division
Licensure Bureau

RADON CONTROL

1. Types of Activities Regulated

Prior to selling any *inhabitable* property, the seller or their agent must provide a designated disclosure statement (see 75-3-606, MCA) alerting the buyer to the existence of naturally occurring radon gas in some buildings in Montana and the associated health risks. Whenever a seller knows that a building has been tested for radon gas, the seller must provide the buyer with a result of the test and evidence of any subsequent mitigation or testing.

A person who wishes to be publicly listed by the Montana Department of Environmental Quality in a radon-related occupation must pass a proficiency examination administered by the National Environmental Health Association's National Radon Proficiency Program.

Statute: 75-3-601 *et seq.*, MCA (Montana Radon Control Act)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Planning, Prevention and Assistance Division
Technical and Financial Assistance Bureau

U.S. ENVIRONMENTAL PROTECTION AGENCY
Regional Office, Denver, CO

MAJOR FACILITY SITING

1. Types of Activities Regulated

A Certificate of Environmental Compatibility is required from the Montana Department of Environmental Quality (DEQ) for certain major facilities that transmit electricity, transmit fuels and other substances by pipeline or utilize geothermal resources. Associated facilities such as transportation links, transmission substations and other

facilities associated with the delivery of energy are included. Prior to certification, the applicant must receive the necessary permits from the DEQ for air emissions; wastewater discharges; the generation, transportation, storage or disposal of hazardous wastes; and other relevant permits administered by the department. Special procedures apply for facilities also subject to the jurisdiction of the Federal Energy Regulatory Commission.

Statute: 75-20-101 *et seq.*, MCA (Montana Major Facility Siting Act)

Rule: ARM 17-20-301, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

2. Application Requirements

Applications for a certificate under the Montana Major Facility Siting Act (MFSA) must be filed with the DEQ. The information required varies according to the size and type of the facility, but generally includes a description of the proposed facility and its location; baseline data for proposed sites; alternate site information; and in certain instances, a statement of need for the facility and baseline data on alternative sites. Copies must be sent to the relevant local government authorities, federal agencies and to a number of state agencies, including the Environmental Quality Council and the Departments of Transportation; Fish, Wildlife and Parks; Natural Resources and Conservation; and Public Service Regulation.

Statute: 75-20-211, MCA

Rule: ARM 17.20.801-807

3. Permitting Procedures

1) The DEQ must notify an applicant within 30 days that the application is either complete or incomplete. If an application is resubmitted, the department then has 15 days to advise the applicant that the application is complete and accepted.

2) The DEQ must issue a decision that includes the department's evaluations, recommendations and an Environmental Impact Statement, if any, (see MONTANA ENVIRONMENTAL POLICY ACT, p. 116) within nine months of the date of acceptance of a completed application. For a facility

that is unlikely to result in adverse environmental impacts, the department's decision must be returned in 120 days. Before issuing a decision, the DEQ will provide an opportunity for public review and comment.

3) Executive branch state agencies receiving a copy of the application form must also report to the DEQ on the impact of the proposed facility in the agency's area of expertise.

4) Construction of a geothermal facility must begin within six years from the date of certification. Linear facilities must be completed within 10 years, except for transmission lines less than 30 miles in length, which must be completed within five years.

5) Decisions of the Board may be appealed to a state district court. under the contested case provisions of the Montana Administrative Procedures Act (see p. 115).

Statute: 75-20-216, 219, 223, 231, 301, 303, 304 and 406, MCA

Rule: ARM 17.4.501

4. **Fees**

The applicant for a certificate under the MFSA is required to deposit a filing fee based on the estimated cost of the project in an earmarked revenue fund for use by the DEQ to administer the act. A fee schedule is listed in the statute.

Statute: 75-20-215, MCA

5. **Criteria**

The DEQ must issue an opinion and render a decision either granting or denying an application as filed, or granting it with conditions or modifications. The department must grant a certificate to a geothermal facility if it does not pose a threat of serious injury or damage to the environment or area inhabitants. For a linear facility, the department's decision is based on a number of factors, including the nature of probable environmental impacts considering the state of available technology and the nature and economics of the alternatives; that the facility minimizes adverse environmental impacts compared to the alternatives; that the location of the proposed facility conforms to applicable state and local laws; that the facility will serve the public interest, convenience and necessity; that the DEQ has issued all necessary decisions, opinions, orders, certifications and permits; that the use of public lands for location of the facility is evaluated and public

lands are selected whenever their use is as economically practicable as the use of private lands; and for certain types of applications, that there is a need for the facility. The DEQ must deny the certificate if the above findings can not be made.

The DEQ must waive the requirement for alternative site studies and the finding of minimum adverse environmental impact when a facility is proposed for construction in a county that has experienced severe unemployment problems because of plant closure.

Statute: 75-20-301 and 304, MCA

6. **Definition of Facility and Exceptions**

Under the MFSA, a facility is:

1) An **electric transmission line** and associated facilities with a capacity of more than 69 kilovolts, *except for* electric transmission lines with a capacity of 230 kilovolts or less and 10 miles or less in length; and electric transmission lines with a capacity of more than 69 kilovolts but less than 230 kilovolts for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline.

2) A **pipeline** greater than 25 inches in inside diameter and 50 miles in length, and associated facilities, *except for* pipelines within the boundaries of the state that are used exclusively for the irrigation of agricultural crops or for drinking water; or pipelines greater than 25 inches in inside diameter and 50 miles in length for which the person planning to construct the pipeline has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline.

3) A **pipeline** greater than 17 inches in inside diameter and 30 miles in length, and associated facilities used to transport coal suspended in water.

4) A **geothermal resource** or addition designed for or capable of producing geothermally derived power equivalent to 25 million Btu's per hour or more *except for* pollution control facilities approved by the department and added to an existing plant.

5) A plant, unit, or other **facility** or addition **subject to the jurisdiction of the Federal Regulatory Energy Commission** capable of generating 50 megawatts of hydroelectric power or more.

Statute: 75-20-104(8), MCA

7. Additional Information

The DEQ may not issue a certificate to construct a nuclear facility in Montana unless it meets the stringent criteria specified in 75-20-1203, MCA. All nuclear facilities must be subject to a public referendum in order to be approved.

PIPELINES

Pipelines with inside diameters greater than 25 inches that are 50 miles long, with some exceptions, or coal slurry pipelines greater than 17 inches in inside diameter and 30 miles in length are regulated by the Montana Major Facility Siting Act. Aspects of other pipeline projects may be covered by statutes listed under UTILITIES (p. 159).

WATER POLLUTION DISCHARGE PERMITS

Industrial and commercial operations often require wastewater discharge permits from the Montana Department of Environmental Quality. See WATER QUALITY PERMITTING, p. 180.

WIND ENERGY

1. Types of Activities Regulated

A person constructing a wind energy facility must first obtain an easement from the appropriate property owner to ensure an undisturbed flow of wind across that property. If the affected property owner is the Montana Department of Natural Resources and Conservation, the use of that land may be subject to permits, leases or easements from the department and approval from the Board of Land Commissioners.

Associated activities that affect air or water quality may require permits from the Montana Department of Environmental Quality (DEQ) (see AIR QUALITY PERMITS, p. 34; and WATER QUALITY PERMITTING, p. 180). Activities that affect migratory bird populations are subject to the provisions of the federal Migratory Bird Treaty Act (see p. 88).

A person who proposes to construct an energy-related project not considered a facility pursuant to 75-20-104(8) may petition the DEQ to review the project under the provisions of the Major Facility Siting Act.

Statute: 70-17-303, MCA (wind energy easement)
77-1-301, MCA (DNRC easements, licenses and permits)
75-20-101 *et seq.*, MCA (Montana Major Facility Siting Act)

Rule: ARM 36.25.104 *et seq.*(DNRC easements, licenses and permits)
ARM 17.20.101 *et seq.* (facility siting)

Contact: PROPERTY OWNER

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

U.S. FISH AND WILDLIFE SERVICE
Montana Office, Helena

BURNING PERMITS

1. Types of Activities Regulated

A. Burning Permits: During the forest fire season (May 1st - September 30th, or as extended), permits are required from the recognized protection agency for the area (county, state or federal) to ignite or set an open fire within forest lands. A permit is not required in a designated, improved campground.

B. Air Quality Permits for Burning: Air quality permits for major burns (an open burn of approximately 100 acres) are required from the Montana Department of Environmental Quality (DEQ). All open burners, major and minor, must comply with restrictions issued from September 1st through November 30th on the Ventilation Hotline (1-800-225-6779) or at the Monitoring Unit's web site at http://www.smokemu.org/. Open burning is prohibited by the DEQ from December through February. See AIR QUALITY PERMITS, p. 34.

The DEQ may issue conditional air quality open burning permits for certain materials, including clean untreated wood waste at landfills and industrial sources, as well as the burning of prohibited materials for the training of firefighters, or open burning in emergency situations, if certain departmental requirements set forth in ARM 17.8.611-612 are followed.

C. Local authorities may require burning permits in addition to the state permit. Several counties require permits to burn any time during the year to protect air quality and prevent fires.

Statute: 7-33-2205 and 76-13-121, MCA

Rule: ARM 17.8.601 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Land and Unit Offices in Anaconda, Billings, Bozeman, Conrad, Dillon, Glasgow, Greenough, Hamilton, Havre, Helena, Kalispell,

Lewistown, Libby, Miles City, Missoula, Olney, Plains and Swan Lake (see APPENDIX 2)

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Fire and Aviation Management Bureau

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

COUNTY SHERIFF OR BOARD OF COUNTY COMMISSIONERS

2. **Fees**

Open burning permits fees are calculated by the department. Contact the DEQ.

Rule: ARM: 17.8.514

CABIN SITES

1. **Types of Activities Regulated**

Leases for cabin sites on state forest lands may be obtained from the Montana Department of Natural Resources and Conservation, Trust Land Management Division. Department rules govern the use and maintenance of these sites.

Statute: 77-1-208, MCA

Rule: ARM 36.11.101

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

HAZARD REDUCTION

1. Types of Activities Regulated

Before conducting any timber cutting or timber stand improvements on private lands or right-of-way clearing on private forest lands, the person conducting the work must be issued an exemption certificate or enter into a fire hazard reduction agreement with the Department of Natural Resources and Conservation (DNRC) except where a minimum slash hazard exists. Exemption certificates are issued for lands that are within the exterior boundary of an incorporated town and release the applicant from the requirements for slash and hazard reduction. Applicants entering into fire hazard reduction agreements must pay administrative fees and post a bond to cover the potential cost to the department in case of default of abatement measures. The department will issue a certificate of clearance and return the bond when the fire hazard has been appropriately reduced and the agreement for reduction of fire hazard has been executed. The DNRC must be notified at least 10 days prior to any clearing for right-of-way.

Statute: 76-13-401 through 414, MCA

Rule: ARM: 36.11.221-232

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Land and Unit Offices in Anaconda, Billings, Bozeman, Conrad, Dillon, Glasgow, Greenough, Hamilton, Havre, Helena, Kalispell, Lewistown, Libby, Miles City, Missoula, Olney, Plains and Swan Lake (see APPENDIX 2)
Forestry Division
Service Forestry Bureau

REMOVAL OF NONCOMMERCIAL OR SMALL QUANTITY TIMBER

1. Types of Activities Regulated

Permits are required from the Montana Department of Natural Resources and Conservation for the removal of dead or inferior timber from state forests. If the dead or inferior timber is on county forests, a permit is required from the Board of County Commissioners.

Permits may also be issued, without advertising the sale, to Montana citizens for commercial cutting, at commercial rates, for timber on state or county forests in

quantities less than 100,000 board feet, or in cases of emergency due to fire, insects or blow-down, in quantities less than 200,000 board feet.

Both the Bureau of Land Management and the U.S. Forest Service require permits for fuel wood and Christmas tree cutting on BLM lands and national forest lands.

Statute: 7-8-2608, 2609 and 77-5-212, MCA

Contact: BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Forest Management Bureau

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Resource Area or Field Office

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

2. Fees

Fees for commercial cutting of small quantities of timber on state lands are set by the DNRC or established by the department through competitive bidding.

Statute: 77-5-201, MCA

STREAMSIDE MANAGEMENT ZONES

1. Types of Activities Regulated

While no permit is required to conduct forest practices in streamside management zones, special management standards do apply within and to varying widths on either side of a stream, lake or other water body. The practices of broadcast burning, clearcutting, road construction (except when necessary to cross a stream or wetland), the operation of vehicles, use of hazardous or toxic materials and the deposition of slash or sidecasting of road materials are prohibited, except as provided for by alternative practices approved by the Montana Department of Natural Resources and Conservation.

Statute: 77-5-301 through 307, MCA

Rule: ARM 36.11.301 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Service Forestry Bureau

TIMBER CONSERVATION LICENSE

1. Types of Activities Regulated

The Montana Department of Natural Resources and Conservation (DNRC), under the direction of the Board of Land Commissioners, may issue a timber conservation license in lieu of the sale of timber on state trust lands (see TIMBER SALES, p. 59). The successful applicant for a license must furnish a surety bond and pay fees for forest improvement.

Statute: 77-5-208, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Forest Management Bureau

2. Application Requirements

During the environmental review process (see MONTANA ENVIRONMENTAL POLICY ACT, p. 116) for a proposed timber sale, the applicant for a timber conservation license must submit a written request to the DNRC to defer the sale or a portion of the sale. If the request is not received before the completion of the review process, the department may not issue a license.

3. Permitting Procedures

Once the DNRC receives a written request, it will prepare the sale for consideration by the Board using the alternatives of the sale with and the sale without the timber conservation license. The DNRC will solicit bids for each alternative to ensure that full, fair market value for the sale is secured.

TIMBER HARVESTS/BEST MANAGEMENT PRACTICES

1. Types of Activities Regulated

Timber owners and operators must notify the Montana Department of Natural Resources and Conservation (DNRC) prior to conducting a forest practice. Forest practices include timber cutting, road construction or reconstruction, site preparation, reforestation or management of logging slash.

Within five working days of receiving notification of a forest practice, the DNRC will provide the operator with information on forestry Best Management Practices (BMPs) and issue a notice that the forest practice may proceed or request an on-site consultation. The department encourages the use of BMPs to protect and conserve water, range, soil and forest resources.

Statute: 76-13-101, 104(3) and 131 *et seq.*, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Service Forestry Bureau

TIMBER SALES

1. Types of Activities Regulated

Timber sales on state forest lands are administered by the Montana Department of Natural Resources and Conservation (DNRC) and final approval is granted by the Board of Land Commissioners. See also TIMBER CONSERVATION LICENSE, p. 58.

Statute: 77-5-201 through 223, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Forest Management Bureau

2. Application Requirements

1) Timber proposed for sale in excess of 100,000 board feet must be advertised in a newspaper in the county in which the timber is located for

a period of at least 30 days, during which time the DNRC can receive sealed bids up to the hour of the bid closing, as specified in the notice.

2) In cases of emergency due to fire, pest or blow-down or in cases when the department must act immediately to take advantage of access granted by permission of an adjoining landowner, a sale of up to 1 million board feet may be advertised for not less than 10 days. In cases when the department must act immediately to take advantage of access granted by permission of an adjoining landowner and there is only one potential buyer with legal access, the department may negotiate a sale of timber not in excess of 1 million board feet without offering the timber for bid if the sale is for fair market value.

3) On the award of sale, the purchaser must execute a formal agreement, approved by the Board, which describes the area where the timber is to be cut, the approximate quantity to be cut, by species, and the rate for each product of each species. The purchaser also is required to furnish a bond to the state in an amount equal to at least five percent of the estimated value of timber sold.

Statute: 77-5-201 *et seq.*, MCA

3. Fees

Live timber must not be sold for less than fair market value. The minimum value is appraised under the direction of the department and approved by the Board of Land Commissioners. The Board also approves fees for forest improvement on state lands. Contact the DNRC for fee amounts.

Statute: 77-5-204, MCA

4. Additional Information

A detailed bill of sale is required before more than five coniferous trees may be transported over state highways. Also, transportation of more than 200 pounds of boughs from coniferous trees requires written authorization of the owner of the boughs.

Statute: 76-13-601, MCA

HIGHWAY ADVERTISING

1. Types of Activities Regulated

A permit is required from the Montana Department of Transportation (MDT) for placing outdoor advertising signs along or within site of the right-of-way of interstate and primary highways. Standards for maintenance of permitted advertising are outlined in the statutes and rules.

Statute: 75-15-101 *et seq.,* MCA (Outdoor Advertising Act)

Rule: ARM 18.6.201-272

Contact: DEPARTMENT OF TRANSPORTATION
District and Area Offices in Billings, Bozeman, Butte, Glendive, Great Falls, Havre, Kalispell, Lewistown, Miles City, Missoula and Wolf Point and the Right-of-Way Bureau Headquarters in Helena (see APPENDIX 2)

2. Application Requirements

The application for an outdoor advertising permit must be completed on forms furnished by the MDT. The owner of the land affected must agree to the erection or maintenance of the advertising sign. A permit is required for each sign site.

Statute: 75-15-122(1), MCA

Rule: ARM 18.6.211

3. Fees

The MDT requires an initial application fee and a fee for a renewable three year permit based on the square footage of the sign.

Statute: 75-15-122, MCA

Rule: ARM 18.6.211 and 18.6.214

Contact: DEPARTMENT OF TRANSPORTATION
District and Area Offices in Billings, Bozeman, Butte, Glendive,

Great Falls, Havre, Kalispell, Lewistown, Miles City, Missoula and Wolf Point and the Right-of-Way Bureau Headquarters in Helena (see APPENDIX 2)

HIGHWAY APPROACH PERMITS

1. Types of Activities Regulated

Permits are required from the Montana Department of Transportation (MDT) for the construction of driveways and other approaches intersecting public streets and highways.

Statute: 60-2-201, MCA

Rule: ARM 18.5.104 *et seq.*

Contact: DEPARTMENT OF TRANSPORTATION
District and Area Offices in Billings, Bozeman, Butte, Glendive, Great Falls, Havre, Kalispell, Lewistown, Miles City, Missoula and Wolf Point (see APPENDIX 2)

2. Application Requirements

An application for an approach permit must be made by the owner of the property being served, the contract purchaser or the owner of a long term lease with more than five years remaining on the lease, or their authorized agents. These permits are only for the purpose of securing or changing access to the property. A brief description of the proposed work, location and a plot plan must be included in the permit application. If the district engineer determines that the approach will have a significant effect, the applicant may be required to include an Environmental Impact Statement (EIS) (see MONTANA ENVIRONMENTAL POLICY ACT, p. 116) or traffic study with the approach application. No more than two approaches will be approved for any single property tract or business establishment. Exceptions may be made where the frontage exceeds 500 feet or special conditions exist that may benefit the traveling public.

Rule: ARM 18.5.104 and 105

3. Permitting Procedures

1) A request for a permit to construct or reconstruct any residential, commercial, industrial, public street or road approach should be made to the district engineer having jurisdiction over the area.

2) Upon receipt of the request, the district engineer will arrange for a meeting with the applicant in order to discuss the proposed approach.

3) The district engineer and the district traffic engineer have authority to approve curb cuts and public and private approaches, subject to all access control resolutions and/or MDT ownership of same.

Rule: ARM 18.5.104

HIGHWAY ENCROACHMENTS - OCCUPANCY PERMITS

1. Types of Activities Regulated

Encroachment permits are issued by the Montana Department of Transportation (MDT) for construction or maintenance of encroachments on or under highway rights-of-way. Agreements for occupancy or common use showing the conditions of the right-of-way occupancy may also be obtained from the MDT for encroachments on or across state highway rights-of-way. Encroachments include all private structures, devices and facilities placed on, over or under the right-of-way, including ditches, dikes, flumes, canals or bridges. Public utility facilities such as water, sewer, electric, natural gas and communications lines may occupy highway rights-of-way by occupancy agreement with the MDT.

Similar permission is required from the Board of County Commissioners for any work on county roads or rights-of-way.

2. Permitting Procedures

The appropriate permit may be obtained from one of the five MDT district offices (see APPENDIX 2).

Statute: 7-14-2139, MCA

Rule: ARM 18.7.101-108 (private occupancy of highway rights-of-way)
ARM 18.7.201-241 (utility occupancy of highway rights-of-way)

Contact: BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF TRANSPORTATION
Engineering Division; or
District and Area Offices in Billings, Bozeman, Butte, Glendive,

Great Falls, Havre, Kalispell, Lewistown, Miles City, Missoula and Wolf Point (see APPENDIX 2)

See also HIGHWAY UTILITY EASEMENTS, p. 159.

ROADSIDE JUNKYARDS

1. Types of Activities Regulated

The Montana Department of Transportation (MDT)may issue a license for a junkyard situated within 1,000 feet of a primary or interstate highway if the facility is screened from view or not visible from a main traveled course, located within an area zoned for industrial use, or located within an unzoned area the MDT has defined as industrial based on actual uses. Junk includes scrap metals, rags, debris, etc. MOTOR VEHICLE WRECKING FACILITIES (see p. 143) and garbage dumps or sanitary landfills (see SOLID WASTE DISPOSAL, p. 145) are licensed by the Montana Department of Environmental Quality.

Statute: 75-15-201, *et seq.* MCA

Contact: DEPARTMENT OF TRANSPORTATION
Engineering Division
Right of Way Bureau

HUNTING - FISHING - TRAPPING - WILD LANDS & WILDLIFE PROTECTION

The Montana Department of Fish, Wildlife and Parks is charged with the regulation of fishing, hunting, trapping and wildlife protection and issues all hunting, trapping and fishing permits and licenses in Montana, with the exception of aerial hunting permits (Montana Department of Livestock, see below) and licenses for outfitters and professional guides (Montana Department of Labor and Industry, see p. 76).

The Fish, Wildlife and Parks Commission establishes hunting and fishing seasons and restricts hunting, trapping and fishing in certain areas.

Depending on the type and location of an activity, more than one permit may be required. For example, anyone hunting on a shooting preserve must have the appropriate hunting license as well as a shooting preserve permit. Please check all sections that may apply to a proposed activity, and contact the appropriate state agency.

COMMERCIAL ACTIVITIES

AERIAL HUNTING OF PREDATORY ANIMALS

1. Types of Activities Regulated

An individual planning to conduct an aerial hunt must first obtain a permit from the Montana Department of Livestock (DOL), with the exception of 1) those government employees acting within the scope of their employment, or 2) resident landowners hunting on their own property who have followed the notification requirements of the DOL.

Statute: 81-7-101, 501 and 505, MCA

Contact: DEPARTMENT OF LIVESTOCK
Predator Control

2. Application Requirements

To obtain an aerial hunting permit, an applicant must complete the required forms available from the DOL. The permit must show the species of predator and the geographic areas that will be hunted. Permits will be issued only to individuals resident and living in Montana. Nonresident permits may be authorized by the Board of Livestock. Applicants must also be currently licensed as pilots by the Federal Aviation

Administration (FAA), must minimally have a private pilot's license and 200 flying hours and the applicant and their aircraft must meet FAA and Montana Department of Transportation requirements.

Rule: ARM 32.22.102

Contact: DEPARTMENT OF LIVESTOCK
Predator Control

DEPARTMENT OF TRANSPORTATION
Aeronautics Division

3. **Fees**

The DOL issues permits valid for a period of one to three years. Permit fees are $30 for less than one year, $40 for one to two years and $50 for two to three years. The DOL may also issue self-renewing multiple year permits dependant upon compliance with the rules and state law.

Rule: ARM 32.22.103

ALTERNATIVE LIVESTOCK RANCHES/GAME FARMS

1. **Types of Activities Regulated**

A person may not operate an alternative livestock ranch in Montana who has not obtained a permit from the Montana Department of Fish, Wildlife and Parks (DFWP) prior to November 7, 2000. No new licenses may be applied for or granted. Existing alternative livestock ranches must comply with all applicable laws and rules administered by the Montana Department of Livestock (DOL)relating to marking, inspection, transportation and health of the animals. See also ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS, p. 79.

Statute: 87-4-406 *et seq.*, MCA

Rule: ARM 12.6.1520 *et seq.* (licensing)
ARM 32.4.101 *et seq.* (marking, inspection and animal health)

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

DEPARTMENT OF LIVESTOCK
Animal Health Division
Brands Enforcement Division

2. **Renewal Fees**

Number of Animals	Renewal Fee
1 to 20 animals	$100
21 to 60 animals	$200
More than 60 animals	$400

Statute: 87-4-411, MCA

The DOL also assesses a fee, not to exceed $50, for each alternative livestock imported into the state.

3. **Additional Information**

Licensees must keep and maintain for three years written records of all alternative livestock purchases, transfers, sales, births and deaths. The information must be reported to the DFWP as scheduled.

The shooting of game animals or alternative livestock for a fee or other compensation on an alternative livestock ranch is not allowed.

Statute: 87-4-414 and 417, MCA

CAPTIVE BREEDING OF RAPTORS

1. **Types of Activities Regulated**

The Montana Department of Fish, Wildlife and Parks (DFWP) requires a permit for the captive breeding of raptors. (A raptor is a bird of prey with a notched beak and sharp talons; for ex., a hawk or an owl.) The DFWP may grant a permit whether or not the permittee is a licensed falconer. Captive breeding permits are not transferrable and may be revoked at any time for violations of the conditions of the permit or regulations of the Fish, Wildlife and Parks Commission. Permits are issued annually and expire on December 31st. See also WILD BIRD PERMITS, p. 91 and NONGAME AND ENDANGERED SPECIES, p. 88.

Statute: 87-5-210, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division, or;

FISH, WILDLIFE AND PARKS COMMISSION

2. Application Requirements

Persons wishing to apply for a captive breeding permit must file a written application on a form provided by the department. Applications must be accompanied by a copy of a current federal captive breeding permit.

Rule: ARM 12.6.1401

U.S. FISH AND WILDLIFE SERVICE
Regional Office, Denver, CO
Permits Division

3. Fees

The state fee for a captive breeding permit is $20.

Rule: ARM 12.6.1401

4. Additional Information

Captive raptors must be banded with a numbered, nonreusable marker provided by the U.S. Fish and Wildlife Service. Permit holders must notify the DFWP within five days from the day the first raptor egg is laid.

Rule: ARM 12.6.1403 and 1404

COMMERCIAL FISHING

1. Types of Activities Regulated

A permit from the Montana Department of Fish, Wildlife and Parks (DFWP) is required to harvest whitefish or nongame fish for sale or commercial purposes. Commercial harvest of whitefish by anglers with hook and line or rod may be authorized in waters specified by the Fish, Wildlife and Parks Commission. The taking of whitefish by seine

or net is restricted to the Kootenai River and portions of its tributaries, requires a $1,000 bond and is regulated by the Commission.

Statute: 87-3-204 and 87-4-601, MCA

Rule: ARM 12.7.101

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. **Application Requirements**

An application for a commercial fishing license calls for the applicant's name and address; information on waters to be fished and types of fish harvested; and equipment that will be used. There are three classes of permits for commercial fishing: Class A for taking all nongame species designated by the department for commercial purposes, Class B for taking all designated nongame species except smallmouth buffalo and largemouth buffalo, and Class X to be granted for one year only to take specific nongame species on an experimental basis.

Rule: ARM 12.7.101 and 103

3. **Permitting Procedures**

The DFWP requires permittees to keep records of operations relating to the taking, sale or disposal of fish and to provide records to the department within 30 days following the end of each month. All species not authorized in the permit must be released alive and unharmed to the waters from which they came. All waters but Fort Peck are limited to one commercial fishing operation unless the DFWP determines that a larger catch would be beneficial. The department may impose special conditions regarding gear, limits, seasons, closures, etc. on any water. Existing fishermen receive priority for permits.

Rule: ARM 12.7.102, 104 and 105

4. **Fees**

The fee for a Class A permit is $500 and for a Class B permit, $200. There is no charge for a Class X permit.

Rule: ARM 12.7.103

FIELD TRIAL PERMIT

1. Types of Activities Regulated

A permit from the Montana Department of Fish, Wildlife and Parks (DFWP) is required to conduct a field trial to determine if a dog can point, flush or retrieve game birds.

Statute: 87-4-915, MCA

Rule: ARM: 12.6.1606

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Application Requirements

A person wishing to obtain a field trial permit must submit a written application on a form provided by the DFWP. The application must include the applicant's name and address, the name and address of any national affiliate, the location of the proposed field trial, whether live birds will be used and any other related information requested by the department.

3. Permitting Procedures

The application must be presented 20 days or more before the date of the proposed trial. The department director may deny the permit if it is determined that approving the application is not in the best interests of the protection, preservation, propagation and conservation of game birds in the state. If denied, a notice must be mailed to the applicant within 10 days of receipt of the application and must state the reasons for the denial.

4. Additional Information

If an application is granted, the applicant must flush all wild game birds from fields used for the field trial each day before the trial begins. Dogs are not permitted to run free in fields that have not been carefully flushed.

All live game birds used in a field trial must be tagged before being planted or released. Birds may only be planted and released in the presence of a DFWP representative. If an untagged bird is shot, the permit holder must immediately replace it with a live bird.

FISH PONDS

1. Types of Activities Regulated

A permit is required from the Montana Department of Fish, Wildlife and Parks (DFWP) to stock fish in an artificial lake or pond or private fish pond. The permit entitles the holder to stock the pond with fish from a lawful source.

A commercial pond license is required to sell fish, eggs or fry from a private pond. The permit holder must furnish a $500 surety bond conditioned to the effect that the licensee will not sell fish or spawn from public waters or violate the conditions of the license.

Statute: 87-4-603, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. Application Requirements

An applicant for an instream private fish pond must provide reliable information to the DFWP to verify that the tributary, spring or stream does not support game fish or species of special concern and does not pose an unacceptable risk to these species in adjacent waters.

A commercial pond licensee must keep accurate records of the species and quantities of fish or eggs sold or purchased, the dates of sale or purchase, the names of purchasers or sellers, and the locations to or from which fish or eggs were transferred. The licensee must report to the department annually.

3. Permitting Procedures

The DFWP will designate the species of fish that may be stocked and may condition the license to require measures to prevent fish from escaping into adjacent waters. Private pond and commercial pond licenses are issued to an individual and are not transferable. Private pond licenses do not have to be renewed annually. Commercial pond licenses require annual reports as noted above and expire on January 31st of each year.

A license may be revoked for failure to operate or use the pond according to the terms or conditions of the license or state statutes, rules or orders covering importation, transportation, or introduction of fish or eggs.

Statute: 87-4-606 and 607, MCA

4. Additional Information

The department may, under reasonable suspicion and after notifying the landowner, inspect the pond for illegally stocked fish or diseases. Also, the license holder may request an inspection by the department.

FISHING DERBIES OR TOURNAMENTS

1. Types of Activities Regulated

A permit from the Montana Department of Fish, Wildlife and Parks (DFWP) is required to offer or give a prize, gift or anything of value for the taking of any fish that is protected by the state. Any event with an entry fee and where 30 or more people are expected to compete for prizes or cash worth $200 or more for the capture of an individual fish or combination of fish must be permitted.

Statute: 87-3-121, MCA

Rule: ARM 12.7.801

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. Application Requirements

Any individual or organization that plans to sponsor a fishing contest on waters open to public fishing must submit an application to the DFWP at least 180 days but not more than 365 days before the date of the contest. A fishing contest application will be evaluated based on 1) the impacts on fish populations, the aquatic ecosystem and the immediate area; 2) the compatibility with fish management objectives for the water; 3) purse or participation limits (limits may or may not be imposed based on public comment); 4) conflicts with other contests proposed or approved; and 5) compliance with reporting requirements for previously sponsored events.

Rule: ARM 12.7.802-804

3. Permitting Procedures

Once the application is received, the DFWP will provide an opportunity for public comment. For competing applications, the department will approve the application with less impact on resources and that offers the best opportunities for public benefits by

furthering knowledge of angling ethics and aquatic ecology. Within 90 days of receiving the application, the department will approve, approve with modifications or deny the application. Modifications to the application by the department must be discussed with the applicant prior to final action.

The sponsor of a fishing contest must submit a report to the department within 30 days after the contest. The report must include the number of participants, the number of fish caught, the length and weight of the winning fish, or the average length and aggregate weight of the winning fish and the number of fish caught and released. The DFWP may require more detailed catch information.

Rule: ARM 12.7.804-806

4. **Criteria**

An application may be denied for the following reasons: 1) it will have detrimental impacts on fish populations, the aquatic ecosystem or the surrounding area; 2) it would conflict with management goals; 3) it would conflict with other contests; or 4) it is proposed for a period of heavy recreational use on the host body of water, increasing the likelihood of conflicts with other users.

Rule: ARM 12.7.805

FUR DEALERS

1. **Types of Activities Regulated**

A person, firm or corporation that buys, sells, trades or deals in skins or pelts of fur-bearers or predators must secure a fur dealer's license from the Montana Department of Fish, Wildlife and Parks. The license is issued annually and expires April 30th of each year.

Statute: 87-4-301, 303 and 305, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. **Fees**

The license fee for a resident fur dealer is $10 and for a fur dealer's agent (buyer), $10. The fee for a nonresident fur dealer's license is the same as the fee charged for a

nonresident fur dealer's license in the applicant's state of residence. If the nonresident's state does not issue a nonresident fur dealer's license, the fee is $50.

Statute: 87-4-304, MCA

FUR FARMS

1. Types of Activities Regulated

No person may own, control or propagate furbearers for sale or to transfer to another property owner unless they hold a current fur farm license issued by the Montana Department of Fish, Wildlife and Parks.

Statute: 87-4-1002 and 1005, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Application Requirements

A person wishing to apply for a fur farm license must submit a written application to the department which includes the name and address of the applicant, the species of furbearers and any plans for propogation, the legal description of the land, the type of fence for enclosure and the source of the furbearers. The license expires on January 31st following the date issued.

A fur farm license will only be issued to a responsible applicant who owns or leases the premises where the operations will be conducted. A nonresident fur farm owner must have a resident agent who is responsible for the daily operations of the fur farm and who is authorized by the nonresident owner to receive service of process.

Statute: 87-4-1003, MCA

3. Permitting Procedures

Within 30 days of receiving the application, the department must notify the applicant of its decision to approve or deny the application. If the application is denied, the department must specify the reasons for the denial.

4. Fees

The initial fee for a fur farm license is $25 and the renewal fee is $15.

Rule: ARM 12.6.1701

GAME BIRD FARMS

1. Types of Activities Regulated

No person may own, control or propagate game birds unless they hold a current game bird farm license issued by the Montana Department of Fish, Wildlife and Parks (DFWP) with the exception of 1) a person who has a game bird farm but does not sell the birds and who is provided written authorization from the department, or 2) a person who has a migratory game bird avicultural permit (see p. 88).

Statute: 87-4-901 through 916, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Application Requirements

An applicant for a game bird farm license must submit an application to the DFWP that includes that person's name and address, the species of game bird and plans for its propagation, the legal description of the proposed game bird farm location, the type of fence or enclosure and the source of the game birds. If the applicant is a nonresident owner, they must provide the name and address of a local resident agent. The resident agent must be responsible for the daily operation of the farm and be authorized by the nonresident owner to receive service of process.

A game bird farm license will only be issued to a responsible applicant who owns or leases the premises where the operations will be conducted and who has properly fenced or otherwise enclosed the area. The license expires on January 31st following the date issued.

3. Permitting Procedures

Within 30 days of receiving the application, the department must notify the applicant of its decision to approve or deny the permit. If the application is denied, the department must specify the reason for denial.

4. Fees

The initial fee for a game bird farm license is $25 and the renewal fee is $15.

Rule: ARM 12.6.1601

OUTFITTERS AND GUIDES

1. Types of Activities Regulated

An individual who intends to provide services as an outfitter, guide or professional guide must obtain a license from the Montana Department of Labor and Industry, Board of Outfitters.

A guide or professional guide is endorsed by and works under the supervision of a licensed outfitter. An outfitter may not hire a guide or professional guide who does not hold a valid license. When an outfitter endorses a guide or professional guide's application for licensure, the outfitter is attesting to that guide's qualifications. Licenses for outfitters must be renewed by December 31st each year and guides and professional guides are licensed throughout the year.

Permission and any needed permits from landowners (private, state or federal) must be provided to the Board before an individual is licensed, or if licensed, immediately on receipt.

Statute: 37-47-101(8), 301 and 308, MCA

Rule: ARM 8.39.501 *et seq.*

Contact: DEPARTMENT OF LABOR AND INDUSTRY
Business Standards Division
Board of Outfitters

2. Application Requirements

A. First Time Outfitter License: An outfitter's license will be issued to an applicant who has demonstrated that they meet the qualifications necessary to provide the services listed on the application, successfully passed the required examination and filed an operations plan that has been approved by the Board.

Outfitter's Qualifications: An outfitter must be 18 years of age or older, have 100 days of guiding experience in this state or be licensed as an outfitter in another state, be physically capable and mentally competent to perform the duties of an outfitter and must meet the experience and testing requirements as prescribed by Board rule. The outfitter must own or lease the necessary equipment and facilities for the outfitting service, demonstrate respect for related state and federal laws and have not practiced fraud or misrepresentation in obtaining an outfitting, guide, professional guide or conservation license or in advertizing outfitting services.

B. Guide or Professional Guide: An applicant for a guide's or professional guide's license must submit a completed license application provided by the Board. The application must include the signature of the endorsing outfitter. Applicants must provide current proof of first aid certification.

Guide or Professional Guide's Qualifications: A guide or professional guide must be 18 years of age or older, physically capable and mentally competent to perform the duties of a guide or professional guide, be endorsed and recommended by an outfitter with a valid license, meet the experience and education requirements as prescribed by Board rule and have been issued a valid conservation license.

Statute: 37-47-302 through 305 and 311, MCA

Rule: ARM 8.39.501-505 and 514-515

3. **Permitting Procedures**

A. Outfitters: Prior to taking the outfitter exam, the outfitter must meet the experience requirement, submit an operations plan and have the facilities and equipment described in the plan inspected. Once these criteria are met, the license applicant may take the exam. The Board office may solicit comments from the public, the Montana Department of Fish, Wildlife and Parks and other appropriate state and federal agencies to determine if the intended use will conflict with existing uses. If the application is denied, the Board will notify the applicant of the denial and the reasons for the denial. If the deficiencies are corrected, a license will be issued on reapplication.

B. Guide's License: The employing outfitter must confirm that the applicant for a guide's license meets all qualifications. If approved, the license is mailed to the employing outfitter, who endorses and dates the license. A guide is not considered licensed until the license is in hand.

Statute: 37-47-307, 308 and 341, MCA

Rule: ARM 8.39.503-505, 514 and 804

4. Fees

The Board charges fees for new, amended and renewed licenses; operations plans and plan amendments; number of clients served each year; and an additional fee for hunting camps added after January 1, 1999, to support the licensing program. Please check the statutes and rules for fee amounts or contact the Board.

Statute: 37-1-134, 37-47-306 and 318, MCA

Rule: ARM 8.39.518 and 801

5. Hunting Outfitter License Moratorium

The Board currently restricts the number of land-based hunting outfitter licenses to 543. The Board, in co-operation with the Fish, Wildlife and Parks Commission, may also limit outfitting activities in some areas to protect the public's welfare and resources (see RIVER RECREATION, p. 134).

Statute: 37-37-315, MCA

Rule: ARM 8.39.802

6. Additional Information

Net Hunting Use: A *net client hunting use* designation is assigned to each licensed outfitter based on the most actual clients served by an outfitter in any license category in any license year. An outfitter may not expand net hunting use without first receiving approval from the Board of Outfitters.

Statute: 37-47-316, MCA

Rule: ARM 8.39.804

ROADSIDE MENAGERIES - WILD ANIMAL MENAGERIES - ZOOS - POSSESSION OF WILD ANIMALS

1. **Types of Activities Regulated**

A. A permit is required from the Montana Department of Fish, Wildlife and Parks (DFWP) for the following:

❶ **Roadside menageries** that keep one or more wild animals, birds or reptiles in captivity to exhibit or attract trade. Exhibits by educational institutions or a circus based outside of Montana are not included;

❷ **Wild animal menageries** where one or more large bears or cats are kept in captivity for use other than public exhibition;

❸ **Zoological gardens** operating for the purpose of exhibiting wild animals; and

❹ **To buy or capture wild animals** for a menagerie or zoo.

Permits expire on December 31st and may be renewed by paying an annual fee and submitting a renewal application. Renewal applications for all roadside menageries and wild animal menageries must include an accounting of all wild animals on the facility.

B. It is unlawful to possess a skunk, fox, raccoon or bat except as part of a fur-bearing enterprise, zoo or for scientific research. Animals possessed for six months prior to January 1, 1982 are exempt.

Statute: 87-4-801 through 804, MCA
50-23-102, MCA

Rule: ARM 12.6.1301-1309

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (menageries and zoos)

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Health Policy and Services Division
Communicable Disease Control and Prevention Bureau (possession of foxes, skunks, bats or raccoons)

2. Application Requirements

An application for a roadside menagerie, wild animal menagerie or zoo permit is submitted by completing forms provided by the DFWP. No permit will be issued until the department verifies that the animals will be cared for and the public protected. No permit can be issued or renewed for a roadside menagerie until it is covered by an insurance policy to cover accidents on the premises.

Statute: 87-4-803, MCA

Rule: ARM 12.6.1308

3. Fees

The annual permit fee for five or fewer animals is $10. The annual fee for more than five animals is $25.

Statute: 87-4-803, MCA

SEINING

1. Types of Activities Regulated

A permit is required from the Montana Department of Fish, Wildlife and Parks to seine for or otherwise capture any nongame bait fish (with the exclusion of carp, goldfish and rainbow smelt) in lakes, streams or other bodies of water (except licensed private ponds) for sale or commercial purposes, or to transport these bait fish within the state. Seining nets may not exceed 12 feet by four feet.

Statute: 87-3-203 through 205 and 87-4-602, MCA

Rule: ARM 12.7.201

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division
Regional Offices

2. Application Requirements

The applicant for a commercial seining license must submit a form provided by the department stating their name and address, the waters desired for seining and the

purpose for which the bait fish are being seined.

Rule: ARM 12.7.201-202

3. Fees

The fee for a commercial seining license is $10.

Rule: ARM 12.7.201(2)

4. Additional Information

Unless permitted by statute or other department authorization, bait fish may not be imported into or exported from the state of Montana for commercial or other purposes by a licensee or other person.

It is unlawful to transport live bait fish away from the body of water in which the fish were taken except for by licensed commercial seining operators or within and along the boundaries of the Eastern Fishing District.

Statute: 87-3-111, MCA

Rule: ARM 12.7.201(5)

SHOOTING PRESERVES

1. Types of Activities Regulated

The Montana Department of Fish, Wildlife and Parks (DFWP) issues operating licenses or permits for shooting preserves. All persons hunting on shooting preserves must have a valid resident or nonresident upland game bird license or a three day nonresident shooting preserve bird hunting stamp. Game that may be artificially propagated and hunted on a preserve is limited to pheasants, quail, chukar partridges, hungarian partridges, turkeys and other species set forth by the DFWP. The season for shooting preserves is September 1st through March 31st.

Statute: 87-2-404, 87-4-501 through 504 and 522, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Criteria

Each shooting preserve is restricted to not more than 1,280 contiguous acres. No preserve may be located closer than 10 miles from another preserve or in areas that will substantially reduce hunting areas available to the public. The exterior boundary of each shooting preserve must be clearly defined and posted with signs erected around the extremity at intervals of 250 feet or less.

Statute: 87-4-502, MCA

3. Additional Information

The DFWP will furnish self-sealing pheasant tags to licensed shooting preserve operators for 10 cents each. All harvested game must be tagged prior to removal from or consumption on the premises.

Statute: 87-4-525, MCA

Rule: ARM 12.6.1201

4. Fees

Fees for shooting preserve operating licenses or permits are $50 per year for the first 160 acres of shooting preserve area, plus $20 per year for each additional 160 acres or parts thereof.

Statute: 87-4-503, MCA

TAXIDERMY

1. Types of Activities Regulated

A person in the business of making mounts of, preserving or preparing dead wildlife or its parts must have a license from the Montana Department of Fish, Wildlife and Parks. A written record must be kept of all wildlife in the licensee's possession or control. The record should include information on who owns the wildlife, the kind and number of species, all articles of wildlife shipped and to whom, etc. A state game warden may inspect the records of a taxidermist at any reasonable time.

Statute: 87-4-201, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Fees

A taxidermy license is $15.

WILDCRAFTING

1. Types of Activities Regulated

A person or organization collecting or transporting wild plant material for commercial purposes must have in their possession a bill of sale, a signed permission form, or a permit from the landowner of the property from which the plants are taken. Another permit issued by a land management or government agency may be valid in lieu of the wildcrafting permit. A permit or written permission are not required for a landowner to harvest wild plants on their own land or for a person to collect the amount of plant material that the landowner or other jurisdictional entity determines is for incidental or personal use.

Statute: 76-10-101 *et seq.*, MCA

Contact: PROPERTY OWNER

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division; or

FEDERAL LAND MANAGEMENT AGENCY

2. Application Requirements

The written permission form or permit must include the beginning and end dates for which the permission or permit are valid; basic information about the landowner, the permit or permission holder and the plants that will be wildcrafted; a description of the location of the activity; and the license plate number of the vehicle used for wildcrafting.

3. Additional Information

A buyer of wildcrafted plant material must keep records with specific information outlined in state law about purchases or acquisitions for three years.

Statute: 76-10-105, MCA

FISHING, HUNTING AND TRAPPING LICENSES

1. Types of Activities Regulated

All persons wishing to pursue, hunt, trap, take, shoot or kill any game animal, game bird or fur-bearing animal must have a license from the Montana Department of Fish, Wildlife and Parks.

Statute: 87-2-103, MCA
87-2-301 *et seq.*, MCA (fishing licenses)
87-2-401 *et seq.*, MCA (game bird licenses)
87-2-501 *et seq.*, MCA (game animal licenses)
87-2-601 *et seq.*, MCA (trapping licenses)
87-2-701 *et seq.*, MCA (special licenses)

Rule: ARM 12.3.101-175 and 402-406

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Administration and Finance Division

2. Application Requirements

An applicant for a hunting, fishing or trapping license must first acquire a wildlife conservation license. Wildlife conservation, hunting, trapping or fishing licenses can be obtained at a private sector license agent or at Fish, Wildlife and Park's offices. Annual hunting and fishing licenses expire on the last day of February, and trapping licenses on the last day of June.

Statute: 87-2-106 and 201, MCA

3. Permitting Procedures

General hunting and fishing licenses are issued at the time of application. Special hunting licenses are issued via a random computer drawing process. Applications for moose,

sheep and goat licenses must be completed by May 1st and applications for deer, elk and antelope licenses must be completed by June 1st. Nonresident combination big game licenses are limited and are issued on a first-come, first- served or drawing basis with an application deadline of March 15th.

4. Fees

Fees vary according to the type of license issued. Contact the DFWP.

5. Criteria

All applicants are eligible if they meet residence, hunter safety instruction and age requirements. Licenses and permits must be in the person's possession at the time of the activity.

FISHING, HUNTING AND TRAPPING REGULATIONS

1. Types of Activities Regulated

Certain fishing, hunting and trapping regulations are established annually by the Montana Department of Fish, Wildlife and Parks depending on a number of factors: the current population of a species, climatic conditions, etc. Check with the department for the latest requirements for a specific area or species.

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

The following items or activities are among those regulated by the DFWP.

ACTIVITY OR ITEM	STATUTE OR RULE
Aerial hunting/hunting from boats	87-3-126, MCA
Big game hunting	87-3-301 through 307, MCA
Buying, selling, possessing or transporting fish or game	87-3-111, MCA
Fish hatcheries	87-3-201, MCA
Ice fishing shelters	ARM 12.6.101-108

Importation or introduction of wildlife	87-3-105, MCA
Importation of salmonid fish or eggs	87-3-210, 221, MCA
Migratory game birds	87-2-411, MCA
Number of game animals killed	87-3-103, MCA
Package labeling	87-3-114, MCA
Seining or netting fish	87-3-205, MCA
Spotlighting	87-3-101(3), MCA
Snare trapping	87-3-107, MCA
Use of dogs for hunting	87-3-124, MCA
Use of fish as bait	87-3-203, MCA
Use of explosives or poisons for fishing	87-3-206, MCA
Wasting fish or game	87-3-102, 506, MCA
Waterfowl hunting	87-2-411, MCA

WILDLIFE PROTECTION

GAME PRESERVES

1. Types of Activities Regulated

It is unlawful for a person to hunt for, trap, capture, kill or take game animals, fur-bearing animals or birds within a game preserve established by the Legislature or by the Fish, Wildlife and Parks Commission. It is also unlawful within the limits of a preserve

for a person to carry or discharge firearms, create an unusual disturbance to frighten or drive away game animals or birds or to chase them with dogs.

Permits to capture birds or animals for the purpose of propagation or for scientific purposes, to trap fur-bearing animals or to kill certain predatory animals or birds within a preserve may be granted by the DFWP director on the payment of a fee and in accordance with rules established for the preserve by the Commission.

Statute: 87-5-401 through 406, MCA

Rule: ARM 12.9.202-211

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

IMPORTATION OR INTRODUCTION OF WILDLIFE, FISH OR FISH EGGS

1. **Types of Activities Regulated**

A. It is unlawful to import for introduction or transplant or to introduce any wildlife into Montana without authorization from the Montana Department of Fish, Wildlife and Parks (DFWP). Only specified species of wildlife may be approved by the department for introduction or transplantation (see 87-5-714, MCA and ARM 12.7.701 for a list of species).

Statute: 87-3-105, 87-5-701, 711 and 713, MCA

Rule: ARM 12.7.505

B. It is unlawful to bring live or dead salmonid fish or eggs into Montana without written certification that the fish are free of diseases as specified in ARM 12.7.502 and a permit from the DFWP pursuant to ARM 12.7.505 except for use in home or office aquariums. The department may inspect shipments of imported fish or eggs at any point in the state to ensure compliance with these regulations. The DFWP may impound shipments for further testing if reasonable cause exists.

Statute: 87-3-209, 221 and 222, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division
Wildlife Division

MIGRATORY BIRDS

1. Types of Activities Regulated

A. The U.S. Fish and Wildlife Service (USFWS) establishes laws relating to migratory birds. Under these regulations, no person is allowed to take, possess, import, export, transport, sell, purchase or barter for any migratory bird, or the parts, nests or eggs of these birds except under the terms of a valid permit. A list of migratory birds as established by the USFWS may be found in 50 C.F.R. § 10.13.

Rule: Migratory Bird Treaty Act, 16 U.S.C. 703-712

Contact: U.S. FISH AND WILDLIFE SERVICE
Law Enforcement, Billings

B. Hunting seasons for migratory game birds are established by the Montana Department of Fish, Wildlife and Parks (DFWP) through Fish, Wildlife and Parks Commission action. The seasons must fall within the federal frameworks established by the USFWS in consultation with the Flyway Councils, states and other interested parties. Persons wishing to hunt migratory game birds must possess the appropriate licenses as described in 87-2-411, MCA. See FISHING, HUNTING AND TRAPPING LICENSES, p. 84.

C. The DFWP may issue an avicultural permit for taking, capturing and possessing migratory game birds for the purpose of propagation. The department must first determine that the applicant has received the appropriate federal permit or that the applicant will receive the appropriate federal permit subject to concurrence by the department.

Statute: 87-2-807, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

NONGAME AND ENDANGERED SPECIES - STATE

1. Types of Activities Regulated

No person may take, possess, transport, export, process, sell or offer for sale or ship or receive for shipment any species or subspecies of nongame wildlife identified by the Montana Department of Fish, Wildlife and Parks (DFWP) to be in need of management

or listed as endangered by the state or the United States or on the United States list of endangered foreign fish and wildlife. Species currently listed by the DFWP are: the American peregrine falcon, the whooping crane, the gray wolf and the black-footed ferret. Exceptions are 1) in emergency situations; and 2) when necessary to prevent property damage or to protect human health if a permit is first obtained from the director of the DFWP, and where possible, done by or under the supervision of a department agent. The DFWP director may permit the taking of endangered species for special purposes such as scientific research or for propagation in captivity. See also THREATENED AND ENDANGERED SPECIES - FEDERAL, p. 90.

Statute: 87-5-101 *et seq.*, MCA (Nongame and Endangered Species Conservation Act)
87-5-109, MCA (taking of endangered species for scientific purposes)

Rule: ARM 12.5.201

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

TAKING FISH OR GAME FOR SCIENTIFIC PURPOSES

1. Types of Activities Regulated

A permit is required from the Montana Department of Fish, Wildlife and Parks (DFWP) for taking, killing, capturing or possessing certain species for use in scientific studies. The permit holder may only take as many birds, animals or fish as are necessary for the investigation. A permit may not be granted for any species for which a taking is prohibited by statute or rule.

Statute: 87-2-806, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries or Wildlife Division

2. Application Requirements

A person or organization applying for a collection permit for a scientific investigation must submit an application to the DFWP. The department may require the applicant to submit a plan of operations that includes the purpose for the collection, the methodology to be employed and the qualifications of the collectors.

3. Permitting Procedures

The DFWP may issue a permit with conditions on the time and number of birds, fish or animals that may be collected. The department may deny the permit if it determines: the applicant is not qualified, the collection is not necessary for the investigation, the collection method is not appropriate, the collection may threaten the viability of a species or there is no valid reason for the proposed investigation.

The permit holder is required to submit a report before December 31st that indicates the species, number of individuals taken and the locations of those collections. A permit holder who fails to file a report may be denied another permit.

Permits for collecting fish are not transferable and must be in the possession of the permittee at the time of the collection. Permits expire within the calendar year issued.

4. Fees

There is no fee for a collection permit for an educational institution or government agency. The fee for an individual is $50.

THREATENED AND ENDANGERED SPECIES - FEDERAL

1. Types of Activities Regulated

Under the federal Endangered Species Act (ESA), as amended, special protection is provided to a species or its habitat if the species is listed as endangered (in danger of extinction throughout all or a significant portion of its range), or threatened (likely to become endangered in the foreseeable future throughout all or a significant portion of its range). The U.S. Fish and Wildlife Service (USFWS) lists as endangered the whooping crane, the black-footed ferret, the gray wolf, the pallid sturgeon, the least tern, the Eskimo curlew and the Kootenai River population of the white sturgeon. Species listed as threatened include the bald eagle, the grizzly bear, the piping plover, the bull trout, the Canadian lynx, the water howellia, the Spaulding's catchfly and Ute ladies'-tresses. Certain populations of the black-footed ferret and the gray wolf are classified as nonessential experimental populations and are subject to different regulations.

The ESA requires that all federal agencies, in consultation with the USFWS must insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any threatened or endangered species. Federal agencies involved in major construction actions requiring preparation of an Environmental Impact Statement are required to request a species list and prepare a biological

assessment for the purpose of identifying any endangered or threatened species that is likely to be adversely affected by the action.

The ESA prohibits any person or agency from *taking*[1] any listed species without a special exemption/permit. Species may be added to or removed from the list. Contact the USFWS for current listings.

Statute: 16 U.S.C. 1531-1544 (federal Endangered Species Act of 1973, as amended)

Contact: U.S. FISH AND WILDLIFE SERVICE
Montana Field Office, Helena

USE OF POISON BAIT ON DEPARTMENT LANDS

1. Types of Activities Regulated

No 1080 baits can be placed on Montana Department of Fish, Wildlife and Parks lands without written permission from the Fish, Wildlife and Parks Commission.

Statute: 87-1-201 and 301, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

WILD BIRD PERMITS

1. Types of Activities Regulated

A. No person may hunt, capture, kill, possess, purchase, offer or expose for sale or transport any nongame wild bird or part of a wild bird or take or destroy nests or eggs without a certificate or permit from the Montana Department of Fish, Wildlife and Parks (DFWP). Exceptions are 1) house sparrows, crows, starlings, magpies, rock doves, blackbirds, (see * Note) and other species and their eggs or nests designated by the DFWP, and 2) possession or transportation of parts or plumage of eagles used for religious purposes by a member of a Native American tribe when permitted by federal law.

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[1] To take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or attempt to engage in these actions.

*** Note** Crows, blackbirds and magpies are protected by federal laws, (see MIGRATORY BIRDS, p. 88).

B. Licenses are required for any person to trap, possess, sell or transfer possession of a raptor or to train a raptor in the practice of falconry. The bald eagle and any species listed under the state or federal endangered species acts may not be captured in Montana for the sport of falconry.

C. The DFWP may grant permits for the taking and holding of raptors for captive breeding purposes under certain specific conditions (see CAPTIVE BREEDING OF RAPTORS, p. 67).

D. A permit is required from the DFWP to take, capture or possess a wild bird for the purposes of banding for scientific studies, salvaging birds killed in accidents or collecting abandoned birds' nests for school or museum collections and nursing sick or injured birds.

Statute: 87-5-201 through 210, MCA

Rule: ARM 12.6.1101-1103, 1106, 1109, 1112, 1116, 1118-1130 and 12.9.301

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division
Wildlife Division

2. **Fees**

The state fee for a three-year falconry permit is $25 (available only to residents of Montana) and for a one-year captive breeding permit, $20. A fee for the federal permit is also required.

Statute: 87-5-210, MCA

Rule: ARM 12.6.1120 (falconry permit)
ARM 12.6.1401 (captive breeding permit)

COAL AND URANIUM MINING: OPERATING PERMITS

1. Types of Activities Regulated

A permit is required from the Montana Department of Environmental Quality (DEQ) prior to engaging in strip- or underground mining operations. The permit must designate all lands the operator reasonably expects will be mined during the 5-year permit period. Mined lands must be reclaimed and revegetated. See also, WATER QUALITY PERMITTING, p. 180, and AIR QUALITY PERMITS, p. 34.

The Employment Relations Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Safety Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information to ensure worker safety.

Statute: 82-4-201 *et seq.*, MCA (Strip and Underground Mine Reclamation Act), and
50-73-101 *et seq.*, MCA (Montana Coal Mining Code for mine safety)

Rule: ARM 24.30.1302 and 17.24.301-1309

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Industrial and Energy Minerals Bureau

DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety Bureau

2. Application Requirements

A. Permit

A person applying for a coal or uranium mine operating permit must complete an application furnished by the DEQ that includes a complete and detailed plan for the mining, reclamation, revegetation and rehabilitation of the land and water that may be affected by the proposed operations. The application must include information regarding climate, geology, hydrology, neighboring surface waters, vegetation, etc. For mine

areas containing federal coal, an appropriate number of copies, in consultation with the DEQ, of all applications, maps, reports and other information must be submitted. For mine areas not containing federal coal, two copies of all applications, maps, reports and other information must be submitted to the DEQ. Each applicant for a coal mining permit must also submit, as part of the application, a certificate issued by an insurance company authorized to do business in Montana certifying that the applicant has a public liability insurance policy for the strip- or underground mining and reclamation operations for which the permit is sought. Prior to the issuance of a permit for a coal or uranium mining operation, the operator must file with the DEQ a bond payable to the state of Montana in a sum to be determined by the department of not less than $200 for each acre or portion of an acre of the land affected, with a minimum bond of $10,000. If federal coal is involved, the bond must also be made payable to the U.S. Department of Interior, Office of Surface Mining Reclamation and Enforcement. Permits may be renewed on each 5-year permit anniversary by applying for a renewal to the DEQ. In order to renew a permit, the operator must be in compliance with the permit requirements and the reclamation plan.

B. Reclamation Plan

The reclamation plan for a coal or uranium mine must describe in detail how the applicant will comply with provisions regarding grading, backfilling, water control, topsoiling, reclamation and coal or uranium conservation, as well as measures that will be taken to eliminate damage to landowners and the public, their property, public roads, streams and all other public property from soil erosion, subsidence, landslides, water pollution and hazards. In addition, the plan must list the steps to be taken to comply with applicable air and water quality laws and rules and any applicable health and safety standards.

Statute: 82-4-222, 223 and 231, MCA

Rule: ARM 17.24.302-313

3. **Permitting Procedures**

1) An application for a permit or major revision of a permit or reclamation plan must be submitted to the DEQ. Upon a determination by the department that the application is administratively complete, the applicant must publish a notice in an area newspaper and the DEQ must notify various local governments, planning agencies, sewage and water treatment

authorities and water companies in the area of the proposed mining. Interested persons, or any officer of a federal, state or local government agency may file written objections to the application within 30 days of the applicant's public notice or receipt of the DEQ's notice. If written objections are filed and an objector requests an informal conference, the DEQ must hold the conference in the area of the proposed mining and notify all parties.

2) The DEQ must notify the applicant in writing within 120 days after receipt of the complete application whether the plan is acceptable. If the plan is not acceptable, the DEQ must indicate the reasons why it is not. The applicant may then revise the application. The DEQ then has another 120 days to make its decision concerning the acceptability of the application.

3) An acceptable application triggers public notice of the proposal. A landowner, operator or any person adversely affected by the department's decision may file written objections and/or by written notice, request an informal conference. The informal conference must be held within 20 days of the request. The department must issue its decision within 10 days of the conference.

Statute: 82-4-231, MCA

Rule: ARM 17.24.401-404

4. Fees

An application fee of $100 is required before a permit will be issued.

Statute: 82-4-223, MCA

5. Criteria

The permit for a coal or uranium mining operation may be denied for a number of reasons, including, but not limited to, an inadequate reclamation plan; adverse reclamation possibilities; exceptional topographic or scientific characteristics or cultural resources; historic or geologic importance; critical biological productivity or ecological fragility; the threat of a public hazard; or designation of the land as unsuitable for mining.

Statute: 82-4-227 and 228, MCA

Rule: ARM 17.24.1131-1148

COAL AND URANIUM MINING: PROSPECTING PERMITS

1. Types of Activities Regulated

A coal or uranium mine operator must obtain a prospecting permit from the Montana Department of Environmental Quality (DEQ) if the land is not already included in a current operating permit (see p. 93) and if the prospecting is conducted to determine the available mineral deposits. A reclamation plan and bond must be submitted. The permit is valid for one year and may be renewed.

A prospecting permit is not required for surface disturbances to determine the quantity of overburden in an area, or for gathering environmental data prior to strip- or underground mining and reclamation operations, providing the area to be disturbed is not one designated as unsuitable for coal mining (see 4. Criteria on the following page). However, a person who conducts these activities must file a notice of intent with the DEQ that contains the information required by the department prior to beginning prospecting operations.

Statute: 82-4-226 *et seq.*, MCA (Strip and Underground Mine Reclamation Act)

Rule: ARM 17.24.1001-1018

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Industrial and Energy Minerals Bureau

2. Application Requirements

1) The application for a prospecting permit must be made in writing, notarized and submitted to the DEQ in duplicate on forms furnished by the department. A detailed prospecting map and a prospecting reclamation plan must accompany the application. A description of the proposed method of prospecting and type of equipment to be used must be included. Prior to obtaining a prospecting permit, the applicant must file a reclamation bond with the DEQ based on the estimated cost of the required reclamation and restoration work. The bond may be no less than $200 per acre and the total bond may not be less that $10,000.

2) At least 120 days but not more than 150 days prior to the permit's anniversary date, the operator may submit an application for a permit renewal stating the number of holes permitted and drilled, listing surface disturbances and supplying an updated map.

Statute: 82-4-226, MCA

Rule: ARM 17.24.1001, 1003, 1016 and 1102

3. Fees

The application fee for a prospecting permit is $100.

Statute: 82-4-226(3), MCA

4. Criteria

The permit for prospecting for coal and uranium may be denied for a number of reasons, including, but not limited to, adverse reclamation possibilities; exceptional topographic or scientific characteristics or cultural resources; historic or geologic importance; critical biological productivity or ecological fragility; the threat of a public hazard; or designation of the land as unsuitable for mining.

Statute: 82-4-227 and 228, MCA

Rule: ARM 17.24.1131-1148

HARD-ROCK MINING: EXPLORATION

1. Types of Activities Regulated

Hard-rock mining laws apply to ores other than oil, gas, bentonite, clay, coal, sand, gravel, peat, soil or uranium. A state exploration license for hard-rock mining and a plan of operations are required for any exploratory activity that causes a *material disturbance* of the surface. If the exploration is mechanized (drilling, dozing, backhoe, etc.), a license and reclamation bond are required. Hand sampling with a pick and shovel does not require state licensing or approval. State exemptions are also made for operations conducted on federal lands if the Board of Environmental Review determines that applicable federal rules are as stringent as the state requirements.

Statute: 82-4-301 *et seq.*, MCA

Rule: ARM 17.24.101 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

2. Application Requirements

To obtain an exploration license, the applicant must propose a specific project to the Montana Department of Environmental Quality (DEQ). The DEQ has available standard application forms as well as a sample plan of operations that shows the level of information required. The department also accepts copies of U.S. Forest Service operating plans as long as an adequate map is provided. Once the DEQ receives and reviews an exploration plan, an on-site visit is scheduled among the DEQ, the applicant, and usually, a representative from the appropriate federal agency, to calculate the amount of reclamation bond required for the project. In some instances, joint bonds with the DEQ and the federal agency are accepted to avoid duplicate bonding. The applicant must agree to post the bond, reclaim any damaged land and not be in default of any other reclamation law. An exploration license is a statewide license, and only one is issued per individual or company. Any additional projects are considered amendments to the license, and each must be individually approved and bonded.

Statute: 82-4-331 and 332, MCA

Rule: ARM 17.24.103-104

3. Permitting Procedures

On approval of the exploration plan by the DEQ's Environmental Management Bureau, and after the bond is submitted, the applicant will receive a hard-rock exploration license. The operator can not legally begin explorations, however, until federal approval, if applicable, is also granted. The license is renewable annually on application and payment of the renewal fee.

Rule: ARM 17.24.103

4. Fees

The application fee for an exploration license is $100 and the yearly renewal fee is $25.

Statute: 82-4-332, MCA

HARD-ROCK MINING: MILLING/REPROCESSING

1. Types of Activities Regulated

A person planning to operate a mill to reprocess waste rock or tailings from a previous mining operation must obtain an operating permit before disturbing land in anticipation of the construction or operation of the mill or associated facilities. A *small miner* (see next page for more information on small mine operations) who does not use cyanide or other metal leaching solvents is excluded from this requirement.

Rule: ARM 17.24.167 and 171

2. Application Requirements

To apply for an operating permit from the Montana Department of Environmental Quality, the applicant must: 1) indicate the proposed date for operations, 2) provide a detailed map and summary of resources of the area, 3) file a reclamation bond, 4) file an operating plan and 5) file a reclamation plan. A permit is required for each mill complex.

Annual reports must be submitted describing the available ore, the tailings and waste generated, water quality monitoring and the remaining waste and tailings capacity.

Milling operations are presumed completed and are thus subject to the reclamation time schedule outlined in the approved reclamation plan when the mill has ceased operations for a period of two years or more. A permittee may rebut this presumption by providing evidence satisfactory to the department that the operations have not been abandoned.

Rule: ARM: 17.24.167, 168 and 170

3. Fees

A filing fee of $25 is required unless the mill application is submitted with an associated new operating permit application.

Rule: ARM 17.24.167

HARD-ROCK MINING: OPERATING PERMITS

1. Types of Activities Regulated

A. Large Scale Operations

1) An individual or company is required to obtain a mine operating permit from the Montana Department of Environmental Quality (DEQ) prior to beginning mining unless excluded under the conditions of the *small miner's* exemption (see B. below). Annual reports and fees are required. A reclamation bond and a reclamation plan must be submitted and the department conducts annual inspections for compliance with the reclamation plan. See AIR QUALITY PERMITS p. 34; WATER APPROPRIATIONS, p. 176; and WATER QUALITY PERMITTING, p. 180.

Statute: 82-4-335 through 362, MCA

Rule: ARM 17.24.101-153

2) The Employment Relations Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Safety Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information to ensure worker safety.

Statute: 50-72-101 *et seq.*, MCA

DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety Bureau

B. Small Mine Operations

1) Small miners are exempt from many of the requirements of larger mining operations, including most requirements for bonding and reclamation. A small miner is an operator or reprocessor who does not hold an operating permit for another operation in the state more than 100 acres in size, whose operations leave no more than five acres disturbed and unreclaimed and who files a Small Miner's Exclusion Statement with the DEQ. The small miner exclusion also applies to two operations that are each less than five acres and that are at least one mile apart.

2) The small miner must sign a Small Miner's Exclusion Statement (SMES), available at the DEQ, which consists of a signed and notarized affidavit stating that the applicant will stay within the requirements or conditions of the exclusion. An annual Compliance Commitment and Certificate of Business Relationships are required to maintain SMES status. Excepting certain grandfathered categories, the DEQ has the authority to require a maximum $10,000 reclamation bond on small placer and dredge mines and to recover costs over the $10,000 limit by filing for the additional amount in district court.

3) Small mining operations that use cyanide or other metal leaching solvents are required to obtain an operating permit and to submit a bond for the full reclamations costs for the portion of their operation where these solvents are used. (See 1.A under Large Scale Operations.)

4) Recreational miners who *do not* use motorized excavating equipment; use blasting agents; disturb more than 100 square feet or 50 cubic yards of material at any site; leave unreclaimed sites less than one mile apart; use mercury except in a contained facility that prevents its escape; or use cyanide or other metal leaching solvents *do not need* a small miner's exemption. A landowner allowing mining activities that cumulatively exceed the regulatory threshold *does* fall under the definition of small miner. A small miner's exemption is also required for the use of suction dredges with an intake greater than four inches in diameter, operating beyond the area of a stream bed that is naturally under water at the time of operation, and the person has not received project approval under the Natural Streambed and Land Preservation Act (see STREAM BEDS-STREAM BANKS-WETLANDS, p. 12) and a discharge permit (see WATER QUALITY PERMITTING, p. 180).

Statute: 82-4-301 *et seq.* , MCA

Rule: ARM 17.24.101 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

2. Application Requirements

Large Scale Operations and Small Mine Operations Using Metal Leaching Solvents

An applicant for an operating permit must submit an application for each mine complex. The application consists of several parts, including a description of the present condition of the area, i.e., hydrology, soils, vegetation, cultural resources, wildlife, etc; an operating plan describing the type and size of the operation, equipment, etc; reclamation plans, stating the reclamation objectives and how they will be implemented; monitoring plans; contingency plans; and closure plans. Once the application is completed, the agency will evaluate the plans and will either approve or deny the permit or will approve the permit with conditional mitigations or stipulations. If approved, a bond is then calculated based on the applicant's reclamation plan. Once the bond is submitted, the permit is granted.

Statute: 82-4-335 through 338, MCA

Rule: ARM 17.24.116

3. Permitting Procedures

1) Once a plan is submitted, the DEQ has 60 days for an initial review and 30 days for any subsequent review of the application to determine if it is complete, i.e., if there is enough information to begin an environmental review and make an informed permit decision.

2) If incomplete, the applicant is mailed a deficiency or completeness review letter on or before the review deadline. The letter alerts the applicant to additional resource or plan information required by the department. If it is a joint state/federal action (if permits are required by both the DEQ and the U.S. Forest Service or Bureau of Land Management), a joint deficiency letter is sent that includes comments from both the state and federal agencies. During the application process, the DEQ inspects the proposed site. If the site is not accessible because of extended adverse weather conditions, the DEQ may extend the review period by not more than 180 days to allow for inspection of the site. If the DEQ determines that additional time is needed to review the application and reclamation plan for a major operation, the department and applicant must negotiate to extend the time period by not more than 365 days.

3) There are no constraints on the amount of time an applicant has to prepare a response. Once a response is submitted, the DEQ again has 30 days to

review the information. This process continues until the application is completed.

4) Once the application is deemed complete the DEQ has up to 365 days to conduct an environmental review (see MONTANA ENVIRONMENTAL POLICY ACT, p. 116). This time frame may be extended only through negotiations satisfactory to the department and the applicant.

5) A permit may be appealed within 90 days of issuance.

6) The operating permit must provide that the reclamation plan may be modified by the department after timely notice and an opportunity for hearing.

Statute: 82-4-337 and 349, MCA

4. Fees

The application fee for a hard-rock mining permit is $500.

Statute: 82-4-335, MCA

Rule: ARM 17.24.116

5. Criteria

An operating permit may be denied if the plan of development--mining or reclamation--conflicts with the Montana Clean Air Act (75-2-101 *et seq.*, MCA, p. 34), the Montana Water Quality Act (75-5-101 *et seq.*, MCA, p. 180), the Public Water Supply Act (75-6-101 *et seq.*, MCA, p. 168), or if the reclamation plan is insufficient to accomplish the proposed reclamation.

Additional criteria apply if the applicant has outstanding enforcement or reclamation responsibilities.

Statute: 82-4-351, MCA

6. Additional Information

Large Scale Developments

1) When a proposed mining project will employ more than 75 people in a consecutive six-month period in the construction or operation of a mine or associated milling facilities, the applicant must submit an economic impact plan to the affected counties and to the Hard-Rock Mining Impact Board. The plan must include development timetables; work-force and population in-migration projections and the increased local government service and facility needs, costs and revenues expected to result from the development. The developer must commit to pay to the affected local governments all increased capital and net operating costs identified in the approved plan and, if requested, must provide financial or other assistance to help local governments prepare for and evaluate the impact plan.

2) After the plan is submitted for review, the affected governing bodies have 90 days to submit objections to the impact plan to the Impact Board. The Board may grant one 30-day review extension, or longer if requested by both parties. If objections can not be resolved by the developer and local governments, the Impact Board will hold a contested case hearing. Within 60 days after the hearing, the Impact Board will issue its findings. The Board will then amend the impact plan, if necessary, and will approve the plan.

3) Impact plan review is conducted concurrently with the Montana Department of Environmental Quality (DEQ) mine operating permit review. Within 30 days after receipt of the approved plan, the developer must provide to the Board and the DEQ a written guarantee that it will make all payments according to the schedule in the plan. Activities under the permit may not begin until the impact plan is approved and the permittee has provided its written guarantee. If the plan requires prepayment of taxes, the developer must also provide a third-party financial guarantee acceptable to the Board. Compliance with the terms of an approved impact plan is a statutory condition of the DEQ's operating permit.

4) Under certain circumstances, as specified by statute or by the plan itself, the developer or an affected county may petition the Board for an amendment to the impact plan. Jointly, they may petition for an amendment at any time.

5) Based on periodic reports from the mine permit holder, the DEQ must identify mines that become large-scale mineral developers after receiving

an operating permit and must notify the permittee, the Board and the county in which the mine is located. After providing an opportunity for public hearing, the Board may require an impact plan or may issue a waiver or conditional waiver for the plan. Compliance with the terms of a conditional waiver becomes a condition of the permit holder's operating permit. At the request of a local government, a waiver may be revoked under conditions specified either by law or in the conditional waiver.

Statute: 82-4-335 and 339, 15-37-111 and 90-6-301 *et seq.*, MCA

Rule: ARM 8.104.201 *et seq.*

Contact: BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF COMMERCE
Community Development Division
Hard-Rock Mining Impact Board

LANDOWNER NOTIFICATION

1. Types of Activities Regulated

When surface and mineral rights are in separate ownership, the surface owner must be notified and give approval in writing of the proposed operations before any prospecting, exploration or development of subsurface minerals can take place.

Statute: 82-2-301 *et seq.*, MCA (Landowner Notification Act)

Contact: SURFACE OWNER

MINING RIGHT-OF-WAY

1. Types of Activities Regulated

The owner of mining rights may establish a right-of-way over adjacent lands if necessary to work the claim. The right-of-way may be for roads, ditches, flumes and other mine-related purposes. Application is made to the district court.

Statute: 82-2-201 *et seq.*, MCA

Contact: DISTRICT COURT

2. Permitting Procedures

1) If the mine owner can not obtain the agreement of adjacent landowners for right-of-way, the mine owner may file a complaint in district court requesting that a right-of-way be created.

2) After receipt of the complaint, the district judge must issue a summons to the parties requiring appearance before the court. The court appearance must be 10 or more days from the date of service of the summons.

3) If the judge determines that the right-of-way is warranted, the judge must award the mine owner the right-of-way and establish a commission of three persons to assess damages to the lands used as right-of-way.

4) Use of right-of-way can only begin upon payment of the assessed damages.

Statute: 82-2-203 through 208, MCA

3. Additional Information

Any party may appeal the commissioners' assessment of damages to the district court within 10 days after the report is filed.

Statute: 82-2-209 through 212, MCA

OPENCUT MINING

1. Types of Activities Regulated

The Opencut Mining Act and the correlated regulations apply to the mining of bentonite, clay, scoria, peat, soil, sand or gravel. An operator may not remove over 10,000 cubic yards of material and overburden until the Montana Department of Environmental Quality (DEQ) has issued a permit for the reclamation of affected lands. Exemptions may be available for operators currently holding a reclamation permit if the new operations will result in the removal of 2,500 cubic yards or less of material and overburden. There are specific requirements for this exemption, however, and a completed form provided by the department must be submitted. Operations on certain federal lands may be exempt if the Board of Environmental Review determines that federal regulations are at least as stringent as state requirements.

The Employment Relations Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Safety Bureau works with the mine

operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information to ensure worker safety.

All opencut sand and gravel operations must comply with applicable zoning regulations if the proposed mine site is in an area zoned as residential.

An air quality permit (see AIR QUALITYPERMITS, p. 34) from the DEQ is required for the operation of any mineral crushing or other processing plants.

Statute: 82-4-401 *et seq.*, MCA (Opencut Mining Act)
50-72-101 *et seq.*, MCA (mine safety)

Rule: ARM 17.24.201 *et seq.* and 17.8.705

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Industrial and Energy Minerals Bureau

DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety Bureau

2. Application Requirements

1) An operator must submit an application for a reclamation permit on a form furnished by the DEQ. A bond of at least $200 for each affected acre, a zoning compliance form, plans of the intended operations and other details of the mine operation are also required.

2) The DEQ has 15 days to notify the applicant whether the application is complete. If the application is not complete, the department must list the deficiencies.

3) The department has 30 days to approve or deny the completed application. The DEQ may, for sufficient cause, extend the review period an additional 30 days.

Statute: 82-4-432 through 434, MCA

Rule: ARM 17.24.203-205

3. Permitting Procedures

The application form and accompanying materials (permits, bond, map(s) and reclamation plan, etc.) are reviewed for completeness to ensure that each item is addressed correctly. An on-site evaluation is conducted to determine if the land is mineable and reclaimable and to make sure site conditions are as specified in the application. The site inspection may be conducted with the applicant and other interested persons. If additions or changes are necessary, the applicant will ne notified within 10 working days.

Rule: ARM 17.24.212

4. Fees

An application fee of $50 is required for an opencut mining permit.

Statute: 82-4-432, MCA

5. Criteria

The DEQ will issue a permit only if the bond, reclamation plan and other requirements of Title 82, Chapter 4, Part 4 are fulfilled. The reclamation plan must ensure that the applicant will establish vegetative cover, will appropriately protect ground and surface water and will remove or bury metal and other waste, etc. (see also WATER, pp. 173 and 180, and AIR QUALITY PERMITS, p. 34).

Statute: 82-4-432 through 434, MCA

Rule: ARM 17.24.205

OPERATIONS ON STATE LANDS: COAL MINING

1. Types of Activities Regulated

Coal mining leases on state lands are awarded by competitive bidding at no less than fair market value. The primary term is 10 years and as long thereafter as coal is produced in commercial quantities. Rent and royalties must be paid. See also WATER QUALITY PERMITTING, p. 180.

Statute: 77-3-301 *et seq.*, MCA

Rule: ARM 36.25.301 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

Applications for coal leases may be made on a form furnished by the department. An adequate and sufficient description of the lands sought for lease must be included. All coal leases must comply with the requirements of the Strip and Underground Mine Reclamation Act, (82-4-201 *et seq.*, MCA, pp. 93-96). Mining operations must be systematic to the extent possible to prevent the waste of coal and to prevent more difficult or costly mining in subsequent operations.

Statute: 77-3-306, MCA

Rule: ARM 36.25.304

3. Permitting Procedures

1) When sufficient applications for leases have been received, a lease sale will be announced through publication in a trade journal of general circulation in the coal mining industry or in Montana's major newspapers for four weeks preceding the sale.

2) Prior to issuing a coal mining lease, the Board of Land Commissioners must evaluate the coal and land proposed for lease in order to determine the fair market value of any coal reserves located on the land.

3) Sales of state coal leases are through competitive bidding. The Montana Department of Natural Resources and Conservation may require a bid deposit in any amount it may determine, up to 10 percent of the appraised value of the coal offered for lease.

Statute: 77-3-312, MCA

Rule: ARM 36.25.304

4. **Fees**

A. A fee of $50 is required for a lease application.

B. Rent is on a per-acre basis and can not be less than $2 per acre.

C. The lessee must pay in cash a royalty on all coal produced from the leased premises at a rate of not less than 10 percent of the coal's value.

Statute: 77-3-316, MCA

Rule: ARM 36.2.1003 and 36.25.309-310

OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS

1. **Types of Activities Regulated**

The Board of Land Commissioners leases state lands for the purpose of mining for metalliferous minerals and gems (see HARD-ROCK MINING: EXPLORATION, p. 97, for a definition). Royalties must be at least five percent of the full market value of the metalliferous minerals recovered under the lease.

Statute: 77-3-101 *et seq.*, MCA

Rule: ARM 36.25.601

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. **Application Requirements**

An application for a mining lease must be made on forms furnished by the DNRC.

Statute: 77-3-111, MCA

Rule: ARM 36.25.604

3. Permitting Procedures

1) Leases may be issued on a first-come, first-served basis or by competitive bid.

2) When the DNRC receives an application for a lease, it may advertise for written bids on the tract of land for a reasonable time in trade journals and/or the official county newspaper of the county where the tract is located.

3) If bids are accepted, the tract will be leased to the highest bidder unless the Board determines that the bid is not in the state's best interest.

4) Prior to the leasing of state lands for mining, the DNRC must conduct an investigation of the lands to determine the character of the lands for mining and the amount of royalty. The department may require the applicant to pay for this investigation in a sum not to exceed $500.

5) The lease will contain provisions for prospecting and mining, royalty, etc. The Board also may require payment of a bond.

Statute: 77-3-111 through 112 and 77-3-119 through 121, MCA

Rule: ARM 36.25.602 *et seq.*

OPERATIONS ON STATE LANDS: PROSPECTING

1. Types of Activities Regulated

Permits for prospecting for metalliferous metals (gold, silver, lead, zinc, copper, platinum, iron and all other metallic minerals) or gems (sapphires, rubies and other stones known as *precious* or *semiprecious*, but not including stones used in construction work) on state lands must be obtained from the Montana Department of Natural Resources and Conservation (DNRC).

Statute: 77-3-101 *et seq.*, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

The applicant for a prospecting permit on state lands is required to pay the issuance fee. The permittee also must pay an annual fee during the life of the permit.

Statute: 77-3-103, MCA

3. Fees

The prospecting permit fee is set by the DNRC and approved by the Board of Land Commissioners. Contact the DNRC for fee information.

Statute: 77-1-302, MCA

Rule: ARM 36.2.1003

OPERATIONS ON STATE LANDS: STONE, GRAVEL AND OTHER NONMETALLIFEROUS MINERALS

1. Types of Activities Regulated

Leases for the mining of nonmetallic minerals (i.e., stone, limestone, oil shale, clay, bentonite, calcite, talc, mica, ceramic, asbestos, marble, diatomite, gravel and sand, phosphate, sodium, potash, sulphur, fluorite, barite or any other nonmetallic mineral, exclusive of coal, oil or gas) on state lands are issued on a royalty basis for up to a 10-year period. The lessee may have a preferential right of renewal of a producing lease under the readjustment of terms and conditions as the Board may determine to be necessary in the interest of the state. Monthly reports are required. The Board of Land Commissioners may issue permits on its terms and conditions to the Montana Department of Transportation, the Board of County Commissioners or other local government entities for the removal and use of stone, gravel or sand from state land for the construction and maintenance of streets, bridges, highways, etc. Compliance with air quality laws is also required. See AIR QUALITY PERMITS, p. 34 and OPENCUT MINING p. 106.

Statute: 77-3-201 *et seq.*, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

Applications must be made on forms supplied by the Montana Department of Natural Resources and Conservation.

3. Permitting Procedures

See: OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS, p. 110.

4. Fees

An application fee of $40 is required for a nonmetalliferous lease.

Statute: 77-3-202, MCA

Rule: ARM 36.2.1003

RECORDING OF MINING CLAIMS

1. Types of Activities Regulated

A person who discovers a vein, lode or ledge of rock on federal land bearing valuable mineral deposits and who wishes to locate a mining claim must follow these procedures:

1) Post a written notice at the point of discovery;

2) Within 30 days, mark the boundaries of the site;

3) Within 60 days, comply with United States mining laws and record the location with the county clerk and recorder, who in turn must provide a copy within 20 days to the Montana Department of Natural Resources and Conservation. The claimant must also, within 90 days, record the claim with the Bureau of Land Management (BLM), Montana State Office in Billings; and

4) File an affidavit of performance of annual work with the appropriate county. Claim maintenance fees must be paid or the applicant must comply with the BLM small miner maintenance fee waiver provisions by September 1st of each year. Small miners taking advantage of the fee waiver provisions must still file annual assessment filings on or before

December 30th of each year.

Statute: 82-2-101 *et seq.*, MCA

Contact: COUNTY CLERK AND RECORDER

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Montana State Office

MONTANA ADMINISTRATIVE PROCEDURES ACT

1. Types of Activities

Whenever a statute requires a license or permit decision to be preceded by a hearing, the contested case provisions of the Montana Administrative Procedures Act (MAPA) apply.

Statute: 2-4-601 *et seq.*, MCA

Rule: ARM 1.3.101 *et seq.*

2. MAPA Procedures

After reasonable notice, all parties must be afforded an opportunity for hearing. Parties are entitled to be represented by an attorney. If formal hearing procedures are followed, the rules of discovery and evidence, right to cross-examine witnesses, rules of privilege, etc., will apply except as otherwise provided by the statute. If all parties agree, less formal procedures may be followed. A hearing officer may be appointed to make findings and recommendations to the agency decisionmakers. A transcript of the hearing will be made available upon request. Within 30 days after the agency's final decision, an aggrieved party may appeal the decision to district court.

Statute: 2-4-702(2)(a), MCA

MONTANA ENVIRONMENTAL POLICY ACT

1. Types of Activities Reviewed

As outlined in the Montana Environmental Policy Act (MEPA) and agency MEPA Administrative Rules, all agencies of the state must conduct an environmental review when making decisions or planning activities that may have an impact on the environment. Depending on the scope and significance of the project, the agency must prepare either an Environmental Assessment (EA), a Mitigated Environmental Assessment (Mitigated EA) or an Environmental Impact Statement (EIS). The environmental review process applies not only to actions initiated by the agency, but also to the issuance of state permits and licenses.

2. Review Process

A. Environmental Assessments (EA)

A state agency must prepare an EA when it is considering an action that may impact the environment and it is unclear whether an EIS is needed, or it is clear that the impacts of the proposed action are not significant, or statutory requirements do not allow sufficient time for the agency to prepare an EIS. The level of analysis required for an EA depends on the complexity of the proposed action, the environmental sensitivity of the area, the degree of uncertainty as to whether the proposed action will have a significant impact on the environment and the need for and complexity of mitigation required to avoid significant impacts. If an EIS is not needed, the agency must explain why an EA is sufficient.

B. Mitigated Environmental Assessment (Mitigated EA)

A state agency may, as an alternative to preparing an EIS, prepare an EA whenever the action is one that might normally require an EIS, but effects that might otherwise be deemed significant appear to be mitigable below the level of significance through design, or enforceable controls or stipulations or both, imposed by the agency or other government agencies.

C. Environmental Impact Statements (EIS)

A state agency must prepare an EIS whenever an EA indicates an EIS is necessary, or when the agency determines that the proposed action is a major action that will significantly affect the environment. An EIS must discuss the environmental impact of the proposed action; any adverse environmental effects that can not be avoided should the action be taken;

alternatives to the proposed action; the relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity; and any irreversible and irretrievable commitments of resources that would be involved if the proposed action were taken.

Prior to preparing an EIS, the agency must solicit public comment to determine the scope of the analysis.

The agency must then prepare a draft EIS and distribute it for public comment. Depending on the comments received, the agency may revise the draft EIS and publish a final EIS, or adopt the draft as the final EIS. The final EIS must include a summary of the major conclusion and supporting information from the draft EIS; a list of all sources of oral and written comments on the draft EIS; the agency's responses to those comments; information obtained subsequent to circulation of the draft EIS; and the agency's recommendation, preferred alternative, or proposed decision together with an explanation of the reasons for the decision.

3. Actions Excluded or Exempted from Environmental Review

The agency is not required to prepare an EA or an EIS for the following categories of action:

(a) actions exempted by statute. These are:

❶ Public Service Commission activities;
❷ legislation;
❸ certain emergency timber sale situations or time dependent access situations involving timber.
❹ certain actions that involve minor amendments to a hard-rock mine operating permit;
❺ the transfer of permits for portable emission sources;
❻ a qualified exemption for reciprocal access agreements on state land.
❼ a transfer of an ownership interest in a lease, permit, license, certificate or other entitlement for use or permission to act by an agency does not trigger review if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law;
❽ DNRC's issuance of lease renewals; and
❾ Nonaction on the part of the DNRC or the Board of Land Commissioners even though it has the authority to act.

(b) actions that qualify for a categorical exclusion as defined by rule or justified by a programmatic review. In the rule or programmatic review, the agency

must identify any extraordinary circumstances in which a normally excluded action requires an EA or EIS;

(c) administrative actions: routine, clerical or similar functions of a department, including but not limited to administrative procurement, contracts for consulting services and personnel actions;

(d) minor repairs, operations or maintenance of existing equipment or facilities;

(e) investigation and enforcement: data collection, inspection of facilities or enforcement of environmental standards;

(f) ministerial actions: actions in which the agency exercises no discretion, but rather acts upon a given state of facts in a prescribed manner;

(g) actions that are primarily social or economic in nature and that do not otherwise affect the human environment; and

(h) actions taken that are immediately necessary to control the impacts of an emergency.

4. **Fees**

If the cost of preparing the EIS exceeds $2,500, the agency may collect a fee from the applicant to pay the costs of EIS preparation. A fee schedule based on the cost of the proposed project is set forth in the statute.

Statute: 75-1-203, MCA

5. **Additional Information**

When a single project requires permits from two or more agencies, a lead agency will be designated to collect the EIS fee and to coordinate preparation of the document.

Statute: 75-1-101 *et seq,* MCA

Rule: Agriculture:
ARM 4.2.312 *et seq*
Commerce:
ARM 8.2.302 *et seq.*
Fish, Wildlife and Parks:

ARM 12.2.428 *et seq*
Environmental Quality:
ARM 17.4.601 *et seq*
Livestock:
ARM 32.2.222 *et seq*
Natural Resources:
ARM 36.2.521 *et seq*
Transportation:
ARM 18.2.235 *et seq*

Contact: Specific Agency

ENVIRONMENTAL QUALITY COUNCIL
LEGISLATIVE SERVICES DIVISION
Legislative Environmental Policy Office

GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

A person or firm planning to conduct geophysical[1] exploration must have a geophysical exploration permit issued by the county clerk and recorder.

Statute: 82-1-101, MCA

Contact: COUNTY CLERK AND RECORDER

2. Application Requirements

1) Prior to beginning the exploration, the applicant must file a Notice of Intent with the clerk and recorder in each county where the exploration will occur.

2) The Montana Secretary of State's Office requires the designation of an authorized resident agent to contact in case of legal action related to the exploration. In addition, a surety bond must be filed with the Secretary of State to indemnify property owners against potential property damage resulting from the exploration.

Statute: 82-1-102 through 104, MCA

3. Permitting Procedures

1) When notified that the surety bond has been filed, the county clerk and recorder will issue an exploration permit valid for that calendar year. The county clerk forwards a notice of the application to the Board of Oil and Gas Conservation (BOGC), which then advises the clerk's office whether the applicant is or is not in compliance with all applicable laws and rules. The BOGC is responsible for taking action to ensure compliance.

2) Before beginning operations, the permit holder must notify the surface users of the land of the schedule of exploration activities. The surface user is responsible for providing the applicant with the name of a contact

[1] Types of geophysical exploration methods include seismic, gravity and magnetic-- among others.

person. Written permission from the surface owner is required to discharge shot holes within a prescribed distance from some structures and water features.

3) Within three months after any firing of shot points in seismic exploration, the permit holder must file a report with the county clerk and recorder. Shot holes must be plugged as specified by the BOGC unless otherwise agreed to between the surface owner and the company. When the exploration is completed, the land surface must be restored.

4) Exploration crews operating in the state must comply with crew identification requirements established by the BOGC.

Statute: 82-1-101 through 108, MCA

Rule: ARM 36.22.501-504

Contact: COUNTY CLERK AND RECORDER

BOARD OF OIL AND GAS CONSERVATION

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Oil and Gas Conservation Division

SECRETARY OF STATE
Business Services Bureau

4. **Fees**

The fee for a geophysical exploration permit is $5 per year.

Statute: 82-1-105, MCA

OIL AND GAS

1. Types of Activities Regulated

A notice of intention to explore and drill for oil and gas, including coal bed methane, on private or state lands[1] must be filed with the Montana Board of Oil and Gas Conservation (BOGC) and permits to drill are required. Wells must comply with spacing units and be operated in compliance with the BOGC's regulations and established pooling orders. Operators must also comply with the Montana Department of Environmental Quality's discharge regulations. See WATER QUALITY PERMITTING, p. 180. If water discharged from a well is to be put to a beneficial use, a permit from the Montana Department of Natural Resources and Conservation may be required (see WATER APPROPRIATIONS - GROUND WATER, p. 173 and WATER APPROPRIATIONS - SURFACE DIVERSIONS, p 176).

Statute: 82-11-101 *et seq.*, MCA

Rule: ARM 36.22.601 *et seq.*

Contact: BOARD OF OIL AND GAS CONSERVATION

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Oil and Gas Conservation Division

2. Application Requirements

The notice of intention to drill must include information identifying the area where the proposed activity will occur. Well logs must be kept and filed with the Board; surface lands restored; fresh water supplies protected; and wells drilled, cased, operated and plugged in accordance with Board rules. A bond must be posted to guarantee proper abandonment procedures. No exploration or development drilling may take place until a permit is issued.

Rule: ARM 36.22.601-602

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[1] The BOGC's jurisdiction over federal lands is limited to the authority granted by the U.S. Bureau of Land Management in a Memorandum of Understanding. The BOGC has no jurisdiction over wells drilled on land held in trust by the United States for tribes or Indian allottees.

3. **Permitting Procedures**

1) After the permit is issued, an oil or gas operator or developer must give advance written notice of the proposed drilling operations to the surface owner of record and any purchaser under contract for deed. The owner or operator of an oil or gas well on state-owned land must notify the Montana Department of Natural Resources and Conservation in advance of any operations.

2) The operator is responsible for advertising a notice of pending permit for a well in undeveloped (wildcat) areas in the *Helena Independent Record*, and in a newspaper of general circulation in the county where the well is located. Wells located in BOGC delineated fields need not be advertised, except under certain conditions. Advertisements must follow a format prescribed by the BOGC in rule and must advise of the procedure required to request a hearing. If no request for hearing is received within the 10-day notice period, the permit may be administratively approved. The staff is required to refer an application for permit to drill to the BOGC for notice and public hearing.

3) Prior to the development of a coal bed methane well, the developer must offer a reasonable water mitigation agreement to each ground water right holder with a well that is within 1 mile of the coal bed methane well or within one-half mile of a well that is adversely affected by the coal bed methane well.

4) If the project complies with applicable statutes, rules and regulations, a permit is issued. Operations must occur within the terms and conditions of the permit and the Board administrator has the authority to impose additional permit conditions if it is warranted.

Statute: 82-10-503, 82-11-122, 123 and 85-2-521,MCA

Rule: ARM 36.22.601, 602 and 604

4. **Fees**

Permit fees for oil or gas well drilling are:

1) For each well with an estimated depth of 3,500 feet or less, $25;

2) From 3,501 feet to 7,000 feet, $75;

3) 7,001 feet and deeper, $150.

The BOGC also collects a privilege and license tax to fund the services of the BOGC that is 3/10 of 1 percent of the value of each barrel of crude petroleum and each 10,000 cubic feet of natural gas produced, stored, saved or marketed.

Statute: 82-11-118, 131 and 137, MCA

Rule: ARM 36.22.603

OPERATIONS ON STATE LANDS: GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

The Board of Land Commissioners may issue a geophysical exploration permit on state-owned lands for the purpose of prospecting and exploring for oil and gas.

Rule: ARM 36.25.230 *et seq.*

Contact: BOARD OF LAND COMMISSIONERS
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

A person wishing to prospect for oil and gas by geophysical methods on state land for which an oil and gas lease is not held must submit two copies of a permit application to the Montana Department of Natural Resources and Conservation (DNRC). The application must include a legal description of the areas where the exploration will take place. Descriptions of multiple sections of state-owned land are allowed. A permit from the Board of Oil and Gas Conservation is also required (see OIL AND GAS, p. 122).

Rule: ARM 36.25.230 *et seq.*

3. Permitting Procedures

1) The applicant must be registered to do business in Montana and file a surety bond with the Montana Secretary of State's office. The name and permanent address of the geophysical exploration firm that will be doing the actual seismic work must also be submitted.

2) The applicant must provide proof that the surface owner or lessee has been notified of the approximate time schedule of activities. Permission from oil and gas lessees is also required to conduct exploration on lands covered by an oil and gas lease.

3) A geophysical exploration permit is valid for one year and does not grant any rights to an oil and gas lease or any other interests in the land.

4) There are several conditions for conducting exploration activities designed to protect the land surface.

Rule: ARM 36.25.231 and 232

Contact: SECRETARY OF STATE
Business Services Bureau

4. **Fees**

A. A fee of $50 is required for a permit application.

B. The DNRC charges $50 per shot hole or $100 per mile for vibroseis.

Rule: ARM 36.2.1003 and 36.25.236

OPERATIONS ON STATE LANDS: OIL AND GAS

1. Types of Activities Regulated

The Board of Land Commissioners is authorized to lease any state-owned minerals for the purpose of oil and gas exploration or drilling and development. This includes private or state oil and gas rights beneath state surface-owned land and state oil and gas rights beneath non-state owned land. Coal bed methane is part of the oil and gas estate. Corporations not incorporated in Montana must obtain a certificate of authority to transact business in the state from the Secretary of State prior to applying for a lease.

Statute: 77-3-401, MCA

Rule: ARM 36.25.203-204

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

SECRETARY OF STATE
Business Services Bureau

2. Permitting Procedures

1) A person wishing to lease state lands for oil and gas operations must submit an application on forms furnished by the Montana Department of Natural Resources and Conservation (DNRC).

2) Sale of oil and gas leases are normally held once each quarter (March, June, September and December). The sale of each lease takes place through competitive oral bidding.

3) Notice of each sale is published in the *Rocky Mountain Oil Journal* (formerly the *Montana Oil Journal*) or in one of the state's general circulation publications. Notice is also posted on the DNRC Minerals Management Bureau website and mailed to an interested persons mailing list.

4) The primary term of an oil and gas lease may be for no more than 10 years and no less than five years unless the Board deems that a shorter term is necessary. An oil and gas lease issued on state lands may not exceed 640 acres, except that any section surveyed by the United States containing more than 640 acres may be included under one lease. Leased lands must be generally compact and contiguous.

5) Owners of state oil and gas leases may enter into agreements with others for drilling and other operations. Pooling agreements are also possible. The Board may approve assignment of oil and gas leases to qualified assignees.

6) The owner or operator of an oil or gas well on state-owned land must notify the DNRC in advance of any operations.

7) The lessee is required to submit a plan for location of all facilities to the surface owner or lessee and is required to consult with the surface owner or lessee regarding reasonable location of access roads.

8) Oil and gas operations on state lands are subject to other applicable state regulatory authorities (see OIL and GAS, p.125).

Statute: 77-3-404, 405, 421, 429, 430 and 438, MCA

Rule: ARM 36.25.203, 205, 206 and 217

3. Fees

The fee for an oil and gas lease application is $15 and $25 for a lease issuance. The lease rental fee is $1.50 per acre but not less than $100 per year. The delay drilling penalty is $1.25 per acre in year six of the lease and $2.50 per acre in years seven through 10 of the lease in addition to the rental fee. Royalties are 12.5 percent on gas and 13 percent on oil.

Rule: ARM 36.2.1003 and 36.25.208- 210

UNDERGROUND INJECTION CONTROL

1. Types of Activities Regulated

Underground injection control permits are required from the Montana Board of Oil and Gas Conservation (BOGC) for new injection wells or to convert existing wells to injection for the purposes of disposal, storage or enhanced recovery of oil or gas (class II wells).

Underground injection wells that inject hazardous and nonhazardous wastes below the lowermost under ground source of drinking water (class I); inject super-heated steam, water or other fluids into formations in order to extract minerals (class III); other injection wells that are not included in categories I-III and are usually shallow wells that inject nonhazardous fluids (class V); and underground injection wells on reservation lands are permitted by the U.S. Environmental Protection Agency. Class IV wells that inject hazardous or radioactive wastes into or above underground sources of drinking water are prohibited.

Statute: 82-11-101 *et seq.*, MCA

Rule: ARM 36.22.1401 *et seq.*

Contact: BOARD OF OIL AND GAS CONSERVATION

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Oil and Gas Conservation Division

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

2. **Application Requirements**

1) The application for an underground injection well filed with the BOGC must show the location of all wells and pipelines, a description of the formation, a description of the injection zone, logs and lithologic information, a description of the injected fluids and the names and addresses of the leaseholders and the surface owners. In addition, the applicant must submit a corrective action plan and fulfill bonding requirements.

2) A notice of application for an underground injection permit must be mailed to each current operator, lease owner and surface owner within the review area on or before the date the application is mailed to or filed with the BOGC.

3) Well abandonment plans must be filed with and approved by the BOGC. When wells have been plugged and the project completed, the land surface must be restored.

Rule: ARM 36.22.1307 and 36.22.1403-1425

4. **Fees**

The Board collects an annual injection fee of $200 for each injection well.

Rule: ARM 36.22.1423

UNDERGROUND STORAGE OF NATURAL GAS ON STATE LANDS

1. **Types of Activities Regulated**

The Board of Land Commissioners is authorized to lease state lands for the underground storage of natural gas to public utilities that transport or distribute natural gas for ultimate public use.

Statute: 77-3-501 *et seq.*, MCA

Contact: DEPARTMENT NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Permitting Procedures

1) The Board may order a hearing prior to issuance of a lease. A lessee must furnish a bond to indemnify the state against damage or loss.

2) Lease terms may not exceed 20 years. The lessee has a preferential right to renewal.

3. Criteria

The lessee must use all reasonable precautions to prevent waste of oil or gas developed on the land or injury to oil or gas deposits.

PARKS AND RECREATION

BOATING

1. Types of Activities Regulated

All owners of motorboats and sailboats 12 feet in length or longer[1] must obtain a certificate of ownership (title) and a certificate of number (identifying the boat's registration, decal, hull and title numbers) from the local county treasurer's office before operating the boat in state waters. License decals must be displayed on each side of the forward half of the vessel, three inches to the rear of its identifying numbers. Out-of-state boats used in Montana for more than 90 consecutive days must also be registered at the county treasurer's office in the county where the boat will be used most often. See also RIVER RECREATION, p. 134.

Statute: 23-2-508 *et seq.*, MCA

Rule: ARM 12.11.325-340

Contact: COUNTY TREASURER

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

2. Application Procedures

An application for a certificate of ownership must be made at the county treasurer's office on forms provided by the Montana Department of Justice. Once received, the certificate of ownership is valid as long as the person holding it owns the vessel. An application for a certificate of number (registration decal) is also made at the county treasurer's office and expires December 31st of each year. Certificates of number must be renewed annually.

Statute: 23-2-508 and 512, MCA

3. Fees

The certificate of ownership fee (a one-time fee until ownership changes) is $5. The annual boat registration and decal fee is $3.50. A fee in lieu of property tax is also required, based on the vessel's length and/or age, for motorboats 10 feet in length or

[1] Canoes and kayaks using sails are exempt.

longer, sailboats 12 feet in length or longer (except canoes and kayaks using sails), personal watercraft, motorized canoes, motorized rubber rafts and motorized pontoons.

Statute: 23-2-508(8), 512, 516, 517 and 15-16-202, MCA

4. Additional Information

A. Boat Racing

Written permission from the Montana Department of Fish, Wildlife and Parks is required for any person who plans to conduct a boating race, regatta or other marine event on Montana's waters. Letters of application should be sent to the department at least 30 days before the scheduled event.

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

B. Noise Restrictions

Motorboats or personal watercraft that emit noise greater than 86 dbA when measured at a distance of 50 feet or emit exhaust noise in excess of 90 dbA when measured at a distance of one meter from the muffler at idle speed are considered a public nuisance and constitute disorderly conduct. Noise standards for certain lakes are more restrictive because of population density and heavy recreational use. Motorboats or personal watercraft operated on Flathead Lake, Echo Lake or Swan Lake may not operate near the shoreline if the noise level is greater than 75 dbA measured at the shoreline.

Statute: 23-2-521(3), 523(9) and 526(3), MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

CAMPGROUNDS - TRAILER COURTS - WORK CAMPS -YOUTH CAMPS

1. Types of Activities Regulated

Licenses from the Montana Department of Public Health and Human Services (DPHHS) are required for operating campgrounds, trailer courts, work camps and youth camps and validation must be obtained from the local health officer or sanitarian.

Acceptable plans must be submitted to the DPHHS and the local health department. Operators of water supply systems for trailer courts must be certified by the Board of Water and Wastewater Operators. Trailer courts, work camps and campgrounds may also require review under the subdivision laws. See PUBLIC WATER SUPPLY, p. 168 and SUBDIVISIONS, p. 153.

Statute: 50-52-101 *et seq.*, MCA

Rule: ARM 37.111.201 *et seq.* (trailer courts and tourist campgrounds)
ARM 37.111.601 *et seq.* (work camps)
ARM 37.111.501 *et. seq.* (youth camps)

Contact: LOCAL GOVERNMENT
Health Department

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Health Policy and Services Division
Food and Consumer Safety Section

2. Application Requirements

Application for a license to operate a tourist campground, trailer court or youth or work camp must be made to the DPHHS on appropriate forms. All applicants must submit detailed information about the proposed facilities to the DPHHS and the local health authority for approval before beginning construction. Licenses expire December 31st of the year issued.

Statute: 50-52-201 and 203, MCA

3. Permitting Procedures

1) The local health officer must validate the license within 15 days after issuance by the DPHHS. If the local health officer refuses to validate the license on finding that not all conditions of the license have been met, the health officer must notify the applicant and the department in writing, stating the reasons for the refusal.

2) A refusal to validate by the local health officer may be appealed to the local Board of Health within 30 days after receiving written notification of the local health officer's decision.

Statute: 50-52-208 and 209, MCA

4. Fees

The fee for an annual license is $40. A late fee penalty of $25 may be assessed for failure to renew a license prior to its expiration date.

Statute: 50-52-202, MCA

OFF-HIGHWAY VEHICLES

1. Types of Activities Regulated

No off-highway vehicle may be operated on public lands, trails, easements, lakes, rivers or streams unless a certificate of ownership and a registration decal have first been obtained from the county treasurer's office. Registration decals must be displayed at a conspicuous place on the vehicle as proof that fees have been paid for the current year.

An off-highway vehicle owned by a nonresident that is not registered in another state may not be operated in Montana without a nonresident temporary-use permit.

Statute: 23-2-801 *et seq.*, MCA

Contact: COUNTY TREASURER

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

2. Permitting Procedures

Application for a certificate of ownership and registration decal must be made to the county in which the owner resides. Once received, the certificate of ownership is valid as long as the person holding it owns the vehicle. Registration decals expire on December 31st of the year of issuance and must be renewed annually.

Nonresident temporary-use permit applications are available at locations prescribed by the Montana Department of Fish, Wildlife and Parks, and are valid for a consecutive 30 day period.

Statute: 23-2-811(2), 814 and 817(2), MCA

3. Fees

The one-time fee for a certificate of ownership is $5; the annual registration fee is $2, the annual decal fee is $9 to $9.75 depending on the type of vehicle; and the fee in lieu of tax is $19 for vehicles less than three years old and $9 for all others. The fee for a nonresident temporary-use permit is $5.

Statute: 23-2-803, 811(7), 814, and 817 and 61-3-321, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

RIVER RECREATION

1. Types of Activities Regulated

The public has the right to the recreational use of the state's rivers and streams regardless of streambed ownership, but the Montana Fish, Wildlife and Parks Commission has the authority to limit, restrict or prohibit activities to promote public health, safety and welfare and to protect property and public resources. Restrictions on uses such as the use of motorized watercraft exist in a number of areas. For use and area restrictions, contact the Montana Department of Fish, Wildlife and Parks (DFWP). See also BOATING, p. 130.

Statute: 23-2-302 *et seq.*, 23-2-523, 531, 87-1-303 and 306, MCA

Rule: ARM 12.4.101 *et seq.*, 12.6.801-802 and 12.6.901-904

Contact: FISH, WILDLIFE AND PARKS COMMISSION

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

2. Additional Information

A. Recreational Use Restrictions for the Beaverhead and Big Hole Rivers

There are biennial rules addressing the regulation and distribution of river recreation use for the Beaverhead and Big Hole Rivers. These rules are effective May 2, 2001 to May 1, 2003. Please contact the DFWP for more information.

B. Smith River Float Permits

A permit is required for private floats on the Smith River. From April to October, a per person fee is charged. Applicants must send a completed application form, a list of up to three preferred launch dates and the required fee to the DFWP Helena Office by February 15th. Applications received by this date will be entered into a random drawing, with preferred launch dates awarded in the order they are drawn. Following the drawing, applications are considered on a first-come, first-served basis.

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Helena Office

SNOWMOBILES

1. Types of Activities Regulated

Before operating a snowmobile on public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways, the owner must obtain a certificate of ownership and registration decal from the local county treasurer's office which must be displayed in a conspicuous place on the cowl of the vehicle.

A valid driver's license is required to operate a snowmobile on a public roadway unless the operator has taken an approved snowmobile safety education course and is in the presence and under the supervision of a person who is 18 years of age or older.

Nonresidents who own and wish to operate an out-of-state snowmobile in Montana are not subject to the certificate of ownership and registration requirements, but must obtain a nonresident temporary-use permit prior to operation.

Statute: 23-2-601 *et seq.*, MCA

Contact: COUNTY TREASURER

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

2. Permitting Procedures

Application for a certificate of ownership and registration decal must be made to the county in which the owner resides. Registration decals expire on June 30th of the year of issuance and must be renewed annually.

Nonresident temporary-use permit applications are available at locations prescribed by the Montana Department of Fish, Wildlife and Parks, and are valid for a consecutive 30 day period.

Statute: 23-2-611, MCA

3. **Fees**

The application fee for a certificate of ownership is $5 and for the registration decal, $6.50. The annual fee in lieu of property tax is $22 for vehicles less than four years old and $15 for all others. Proof of payment of the registration decal fees and the annual fee in lieu of property tax is required to obtain a registration decal. The nonresident temporary-use permit fee is $6.

Statute: 23-2-611(8), 615 through 616 and 626, MCA

4. **Additional Information**

A. Noise Restrictions

Snowmobiles must be equipped at all times with noise-suppression devices, including an exhaust muffler in good working order. In addition, the following noise levels, measured at a distance of 50 feet, may not be exceeded:

1) 82 dB(A) for machines manufactured from June 30, 1972 to June 30, 1975, and

2) 78 dB(A) for machines manufactured after June 30, 1975.

The noise restrictions do not apply to snowmobile races or competitive events held on private lands or those held on public lands provided consent from the appropriate government authority is obtained and the total sound produced does not exceed 50 dB(A) at any point 50 feet or more outside the area under the control of the sponsoring entity.

Statute: 23-2-634, MCA

Rule: ARM 12.6.602

B. Use on Public Waters

All public waters within the state of Montana are closed to snowmobile operation. Snowmobiles may cross or enter upon public water if the water is frozen or if it is necessary to cross a small stream to continue travel on snow. When it is necessary to cross a stream, the stream crossing must be perpendicular to the flow of the stream.

Statute: 23-2-501 and 87-1-303, MCA

STATE PARKS

1. Types of Activities Regulated

Permits are required for day-use or overnight camping in most state parks. In addition, the Montana Department of Fish, Wildlife and Parks (DFWP) regulates certain park activities, for example, the number of vehicles per camp-site and the areas where campfires may be burned.

2. Fees

Permit fees vary by area and are paid at the park entrance. Annual park passports are available from the DFWP.

HAZARDOUS WASTE DISPOSAL

1. Types of Activities Regulated

A waste meets the definition of hazardous waste if it is included in an EPA list of specific hazardous wastes, demonstrates any of the characteristics of ignitability, corrosiveness, reactivity or toxicity under standard test procedures, or is a mixture of any waste and one or more listed hazardous wastes. Hazardous wastes may only be transported, stored, treated, disposed of or used for the purposes of resource conservation or recovery in a manner consistent with state and federal law. Hazardous wastes must be properly contained and labeled.

A permit from the Montana Department of Environmental Quality (DEQ) is required to construct or operate a hazardous waste management facility for the treatment, storage or disposal of hazardous wastes.

Certain wastes are exempt from the regulations of the Montana Hazardous Waste Act: for information on these exempt wastes, contact the DEQ.

Statute: 75-10-401 *et seq.*, MCA (Montana Hazardous Waste Act)

Rule: ARM 17.53.101 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

2. Application Requirements

The permit application for a hazardous waste management facility is divided into two parts, A and B. Part A is a short standard form calling for general information that includes the name of the applicant and a description of the activities of the facility.

Part B makes up the bulk of the RCRA (federal Resource Conservation and Recovery Act) permit application and requests specific technical information on how the facility proposes to meet the relevant regulatory requirements.

A permit may be issued for a period specified by the DEQ, and is subject to either renewal or revocation depending on compliance with the permit's provisions.

Statute: 75-10-406, MCA

Rule: ARM 17.53.1201 and 1202

3. Permitting Procedures

1) The DEQ may, in the event of an imminent and substantial danger to public health or the environment, issue a temporary emergency permit to any person for treatment, storage or disposal of hazardous waste or to any facility to handle hazardous waste not covered by the existing facility permit.

2) The DEQ may grant permits to certain hazardous waste management facilities if the owner or operator already holds a license or permit from the DEQ pursuant to other state environmental statutes, or for an interim period, until final administrative action on a permit application is made.

3) If it is determined that an application for a certificate under the Montana Major Facility Siting Act (MFSA) will result in the generation, transportation, storage or disposal of hazardous wastes, the DEQ must conduct its review concurrently with the studies of air and water quality conducted under the provisions of the MFSA. See MAJOR FACILITY SITING, p. 48.

Statute: 75-10-405, 406 and 407, MCA

4. Fees

The DEQ assesses an application fee and a permit modification fee to defray the costs of processing applications for permits or permit modifications.

Statute: 75-10-405(i), 432 and 433, MCA

Rule: ARM 17.53.112

5. Criteria

The DEQ may deny an application or impose conditions on a permit if the applicant, within the five years before the date of application, has a record of complaints and convictions for the violation of environmental protection laws. In making the decision to deny a permit or impose conditions, the department will consider the number and

severity of the violations, the culpability and cooperation of the applicant and other factors.

Statute: 75-10-427, MCA

6. **Additional Information**

A. Generators/Transporters

Generators and transporters of hazardous waste must comply with state and federal reporting requirements, including the use of a manifest system for tracking the movement of all hazardous wastes.

Persons who generate hazardous waste (with certain exceptions) are required to maintain an annual generator registration and to pay a registration fee each year, in addition to obtaining an identification number.

Persons who transport hazardous wastes are required to notify the DEQ and to obtain an identification number. A hazardous waste transfer facility must also comply with regulations established by the DEQ.

Rule: ARM 17.53.601 *et seq.* and 17.53.701 *et seq.*

B. Variances

A person who is a generator or transporter of hazardous wastes or who owns or operates a hazardous waste management facility may apply to the Board of Environmental Review for a variance or partial variance from the application of or compliance with any requirement of the Montana Hazardous Waste Act or any rule adopted under the act.

Statute: 75-10-408, MCA

INCINERATORS - COMMERCIAL MEDICAL WASTE

Permits for commercial medical waste incinerators are required under both the Montana Clean Air Act (see AIR QUALITY PERMITS, p. 34) and the Montana Solid Waste Management Act (see SOLID WASTE, p. 138). The Board of Environmental Review also has the authority to adopt specific rules regulating medical waste incinerators and to establish additional permit requirements because of the potential health risks from associated substances. The definition of commercial medical waste incinerator does not

include hospital or medical facilities that primarily incinerate medical waste generated onsite.

Statute: 75-2-231, MCA

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

INCINERATORS - HAZARDOUS WASTE/BOILERS AND INDUSTRIAL FURNACES

1. Types of Activities Regulated

A permit is required for a boiler and industrial furnace that burns hazardous waste or for a hazardous waste incinerator. The owner or operator must submit an application to the Montana Department of Environmental Quality (DEQ) prior to construction or operation. In addition, the applicant must obtain an air quality permit, or if applicable, an air quality permit modification from the DEQ prior to construction or operation(see AIR QUALITY PERMITS, p. 34).

Statute: 75-10-401 *et seq.*, MCA

Rule: ARM 17.53.801 *et seq.* (hazardous waste incinerators)
ARM 17.53.1001 *et seq.* (BIFs)

40 C.F.R. § 264, subpart O (hazardous waste incinerators)
40 C.F.R. § 266, subpart H (BIFs)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

2. Application Requirements

The permit application is divided into two parts, A and B. Part A is a short standard form calling for general information which includes the name of the applicant and a description of the activities of the facility.

Part B makes up the bulk of the RCRA (federal Resource Conservation and Recovery Act) permit application and requests specific technical information on how the facility proposes to meet the relevant regulatory requirements. Part B must also contain the *trial burn plan*, describing the engineering details of the system and outlining a plan for demonstrating compliance with performance standards, and for establishing limits on certain operating conditions that will become part of the facility's permit.

Statute: 75-10-405 and 406, MCA

Rule: ARM 17.53.1201 and 1202

3. Permitting Procedures

1) The applicant must submit parts A and B of the application to the DEQ.

2) The department conducts a completeness review of the application to determine that all required information and documents have been included in the application. If the application is incomplete, the agency issues a Notice of Deficiency (NOD). When the applicant has submitted all the required information and documentation, the DEQ will issue a notice of completeness.

3) The DEQ then conducts a technical review, analyzing the technical information submitted in the application to determine whether the facility will meet the appropriate requirements. Additional NODs may be issued.

4) The DEQ will then issue a draft permit or a notice of denial.

5) Public notice is given and a public hearing is held.

6) The DEQ then makes a final decision and issues a final permit. The department must respond to public comments on the final permit and must indicate where changes to the draft permit have been made.

7) If applicable, appeals are made. The facility owner/operator may challenge the denial of a permit or a condition of a permit.

4. Fees

The DEQ assesses an application fee and a permit modification fee to defray the costs of processing applications for permits or permit modifications.

Statute: 75-10-405(i), 432 and 433, MCA

Rule: ARM 17.53.112

MOTOR VEHICLE WRECKING FACILITIES

1. Types of Activities Regulated

An annual license is required from the Montana Department of Environmental Quality (DEQ) to operate a motor vehicle wrecking facility. Possession at a single location of four or more junk vehicles is presumptive evidence that the possessor is operating a motor vehicle wrecking facility. One or more junk vehicles at a single location must be shielded from public view.

Statute: 75-10-502, 505 and 511, MCA

Rule: ARM 17.50.201-202

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Community Services Bureau

2. Application Requirements

An application for a license to operate or maintain a private wrecking facility or a county program junk vehicle graveyard can be obtained from the DEQ and must include certification from the appropriate local government officials that the proposed facility does not violate local zoning ordinances (see ZONING, p. 33). The license expires on December 31st of the year issued.

Statute: 75-10-504, 511 and 516, MCA

3. Permitting Procedures

1) The DEQ may deny, suspend or revoke a motor vehicle wrecking facility's license for reasons of theft, forgery, omission, fraud or rule violation.

2) The DEQ's decision to deny, suspend or revoke a license may be appealed by the applicant to the Board of Environmental Review within 30 days of the decision.

Statute: 75-10-514 and 515, MCA

Rule: ARM 17.50.201 and 206

4. Fees

The DEQ requires an annual fee of $50 for a motor vehicle wrecking facility license.

Statute: 75-10-511, MCA

5. Additional Information

The owner of a motor vehicle wrecking facility must keep a record of every junk vehicle obtained and mail a quarterly report to the Montana Department of Justice, Motor Vehicle Division with the required information.

Contact: DEPARTMENT OF JUSTICE
Motor Vehicle Division
Title and Registration Bureau

Statute: 75-10-512 and 513, MCA

Rule: ARM 17.50.207

RADIOACTIVE WASTE DISPOSAL

1. Types of Activities Regulated

Disposal of a *large quantity* of radioactive material, byproduct material and special nuclear material is prohibited in Montana. The prohibition includes nuclear fuels, nuclear power plant wastes and uranium or thorium mill tailings. Certain special use materials (educational, scientific, research and medical, etc.) are exempt from this prohibition.

Statute: 50-79-101 and 302, MCA (Montana Nuclear Regulation Act)

Contact: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Quality Assurance Division

SOLID WASTE DISPOSAL (NONHAZARDOUS)

1. Types of Activities Regulated

A license is required from the Montana Department of Environmental Quality (DEQ) for the disposal of solid waste and for the operation of a solid waste management system. In certain circumstances, the on-site disposal of solid wastes from a person's household or farm and certain categories of on-site industrial waste disposal operations are excluded from this licensing requirement. Sites are approved and licensed by the DEQ and validated by local health officials. *Solid waste* means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, sludge from sewage treatment plants, water supply treatment plants or air pollution control facilities; construction and demolition wastes; dead animals; discarded home and industrial appliances; and wood products or byproducts and inert materials. Solid waste does not mean municipal sewage, industrial wastewater effluents, mining wastes, slash and forest debris regulated by the Montana Department of Natural Resources and Conservation, or marketable wood byproducts.

Megalandfills, landfills that receive more than 200,000 tons of solid wastes per year or monofills that receive more than 35,000 tons of either fly ash or bottom ash per year, are subject to additional siting and licensing controls. (An existing solid waste landfill that accepted 100,000 tons a year of solid waste as of December 31, 1991 is not considered a megalandfill until it accepts more than 300,000 tons a year of solid waste.) The Board of Environmental Review (BER) must issue a certificate of site suitability before a megalandfill may be constructed. Social, environmental and economic impacts of the proposed landfill must be considered in the review process. The DEQ's licensing process and the BER's certification process must proceed concurrently and in a coordinated fashion.

Statute: 75-10-201 *et seq.*, MCA (Solid Waste Management Act)
75-10-901 *et seq.*, MCA (Megalandfill Siting Act)

Rule: ARM 17.50.501 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Community Services Bureau

2. Application Requirements

A person applying for a license to conduct solid waste disposal or to operate a solid waste management system must submit a license application to the DEQ on forms furnished by the department. The application must include the applicant's name and

business address, the location of the proposed facility, the plan of operation and other information as requested.

Statute: 75-10-221(2) and (3), MCA

Rule: ARM 17.50.508 and 509

3. **Permitting Procedures**

A. Time Requirements: The DEQ will notify the applicant if additional information is required. The department must notify the local health officer within 15 days of receipt of the completed application.

B. An Environmental Assessment (EA) is conducted during the solid waste application review process. If indicated by the EA, an Environmental Impact Statement (EIS) may be required (see MONTANA ENVIRONMENTAL POLICY ACT, p. 116).

C. Public Notification, Hearings, Appeal of Denial

1) The DEQ must send one copy of its proposed decision to the applicant and three copies to the local health officer for public posting.

2) Publication of the proposed decision is required in local newspapers and by electronic means.

3) The public has 30 days to submit written comments.

4) The DEQ notifies the local health officer of the final decision after the 30-day comment period. The local health officer then has 15 days to validate or refute the decision.

5) If either the DEQ or the local health officer denies the application for a license, the applicant has 30 days to appeal the decision.

Statute: 75-10-222 through 224, MCA

Rule: ARM 17.50.513 and 514

4. Fees

The department charges a license application fee for any new solid waste management facility or for a substantial change to an existing facility. The department also charges an annual license renewal fee to cover the costs of annual renewals and inspections. Disposal facilities pay a base fee for the type and size of the facility, and an annual per-ton fee on wastes received by the facility. This disposal fee is set at 31 cents per ton for in state waste, and an additional 27 cents for out-of-state waste. All fees are deposited into an earmarked revenue account and are used to support a portion of the costs of the DEQ's solid waste program.

Statute: 75-10-115 and 118, MCA

Rule: ARM 17.50.411 and 415

5. Additional Information

A. Variances

A person may apply to the Board of Environmental Review for a variance from the rules issued pursuant to the Montana Solid Waste Management Act. The Board may grant a variance if it finds that 1) failure to comply with the rules does not result in a danger to public health or safety, or 2) compliance with the rules would produce hardship to the applicant without producing benefits to the public health and safety that outweigh the hardship.

Statute: 75-10-206, MCA

Rule: ARM 17.50.602-603, 605-606 and 609-611

B. Cesspools, Septic Tanks and Privies

See SEPTIC TANKS, CESSPOOLS AND PRIVIES, p. 170).

UNDERGROUND STORAGE TANKS

TANK INSTALLERS AND INSPECTORS

1. Types of Activities Regulated

Those who install, close, inspect or oversee the installation, closure, compliance or inspection of underground storage tanks (UST) must have a valid license issued by the Montana Department of Environmental Quality (DEQ). Within 30 days of completion of a UST system activity, the licensee must submit a completed checklist and a copy of the signed permit to the department and to the owner or operator of the tank. A permit is required from the DEQ for most tank work on certain tanks (see exemptions on the following page). All UST facilities must have a compliance inspection conducted by a DEQ-licensed compliance inspector every three years.

Statute: 75-11-201 *et seq.,* MCA (Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act)
75-11-509, MCA (Montana Underground Storage Tank Act)

Rule: ARM 17.56.1301 *et seq.* and 17.56.1401 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Remediation Division
Technical Services Bureau

2. Application Requirements

An applicant for a license must be at least 18 years of age, submit a license application on a form provided by the DEQ, pass the licensing examination and pay the required fee.

Statute: 75-11-210, MCA

Rule: ARM 17.56.1401 *et seq.*

3. Fees

The license application and examination fee is $100 and the annual renewal fee is $50.

Rule: ARM 17.56.1404

TANK OWNERS AND OPERATORS

1. Types of Activities Regulated

Tank Registration and Standards: Owners and operators of underground storage tanks (USTs) and aboveground storage tanks with underground lines must register each tank with the Montana Department of Environmental Quality (DEQ). UST registration fees are assessed annually. Tank systems must meet certain standards for construction and design, corrosion protection and leak detection.

Permits for Tank Installations, Modifications, Repairs or Closures: Permits are required from the DEQ for tank or piping installations or closures, for modifications, linings or repairs, and for the installation of cathodic protection (to prevent corrosion) and vapor or ground water monitoring wells at existing installations. See also TANK INSTALLERS AND INSPECTORS, p. 148.

New Requirement for Operating Permit: Owners and operators of underground storage tanks must have tanks in use inspected by January 1, 2002 and every three years thereafter. After March 31, 2002 a person may not use a UST without an operating permit issued by the DEQ.

Exemptions: Certain underground tanks are exempt from the provisions of the Montana Underground Storage Tank Act, including: noncommercial motor fuel tanks and heating oil tanks and their underground piping *provided that* 1) they are located at farms or residences, 2) they have a capacity of 1,100 gallons or less and 3) they were installed prior to April 27, 1995. Underground lines connected to aboveground tanks at petroleum refineries are also exempt.

Statute: 75-11-501 *et seq.,* MCA (Montana Underground Storage Tank Act)
42 U.S.C. §§ 6901-6987 (federal Resource Conservation and Recovery Act)

Rule: ARM 17.56.101 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Remediation Division
Technical Services Bureau

2. Application Requirements

Permits for Tank Installations, Modifications, Repairs or Closures: Permit applications must be submitted at least 30 days before beginning any tank work. In the event of an

emergency requiring immediate UST system work, the DEQ may issue an emergency permit valid for no more than 10 days.

New Requirement for Operating Permit: In order to obtain an operating permit, the owner or operator of a UST system must have the system inspected to certify that the operation and maintenance of the tank complies with relevant DEQ laws and rules.

Rule: ARM 17.56.1301 *et seq.*

3. Installation, Operation and Closure Requirements

Permits for Tank Installations, Modifications, Repairs or Closures: A permit is required from the DEQ before installing, repairing, modifying or closing an underground storage tank system or underground piping for an aboveground storage tank system. The installation or closure must either be completed by a person licensed for UST work, or if completed by the owner or operator, then the work must be inspected by a licensed inspector. For tank installations, the licensee, owner or operator must certify that the tank and piping are properly installed according to industry codes, that the tank and piping are protected from corrosion, that the system will be monitored to detect a release within a 30 day period and that the tank is equipped with devices that prevent spills and overfills. A licensee, owner or operator must notify the department of a suspected or actual leak within 24 hours of discovery. The owner or operator must submit proof of financial responsibility guaranteeing that cleanup costs can be paid should a tank leak occur. For tank closures, an environmental site assessment must be conducted that includes the collection and analysis of soil samples to evaluate the condition of the site after tank closure or removal. See PETROLEUM TANK RELEASE CLEANUP FUND, below.

New Requirement for Operating Permit: The DEQ will issue an operating permit when the owner or operator has filed an inspection report signed by a licensed inspector certifying the tank system is in compliance with DEQ laws and rules. Operating permits are valid for 3 years. For a UST installed after December 31, 2001, the DEQ will issue a conditional use permit valid for 90 days to allow time for a valid inspection once the tank is in operation.

Rule: ARM 17.56.701-705 and 17.56.1301 *et seq.*

4. Fees

The annual registration fee for a tank with a capacity of 1,100 gallons or less is $20, and for a tank with a capacity greater than 1,100 gallons is $70.

Permit review and inspection fees are assessed for tank installations, closures and modifications. Fees vary according to the type of tank and the intended work.

Rule: ARM 17.56.1001 and 17.56.1301 *et seq.*

5. Variances

A person may apply for a variance from a requirement or procedure of the underground storage tank program by requesting the approval of an alternative from the DEQ. Certain conditions apply.

Rule: ARM 17.56.105

6. Additional Information

A. Aboveground Storage Tanks

The Montana Department of Justice, Fire Prevention and Investigation Program regulates the installation, operation and removal of aboveground storage tanks to ensure safety from fire and verify compliance with the Uniform Fire Code (UFC). The unauthorized discharge or release of flammable or combustible liquids and petroleum waste products must be handled as set forth in Section 8001.5.2 of the U.F.C. Discharges or releases may also be regulated under the federal Clean Water Act in the event the discharge or release enters *navigable waters.*

Rule: U.F.C. § 5201.3.2, 5301.3, 7901.7.1 and 7901.3

Contact: DEPARTMENT OF JUSTICE
Division of Criminal Investigation
Fire Prevention and Investigation Program

B. Petroleum Tank Release Cleanup Fund:

The state has established a Petroleum Tank Release Cleanup Fund to financially assist owners and operators with the cleanup and damages caused by an accidental tank release. Owners and operators are eligible for reimbursement for eligible costs if:

1) the release was discovered on or after April 13, 1989;

2) the DEQ is notified of the release in the manner and within the time provided by law or rule;

3) the department has been notified of the existence of the tank in the manner required by the department rule or has waived the requirement for notification;

4) the release was accidental;

5) with the exception of the release, the operation and management of the tank complied with applicable state and federal laws and rules when the release occurred and remained in compliance following detection of the release; and

6) the owner or operator undertakes corrective action to respond to the release and the corrective action is undertaken in accordance with a corrective action plan approved by the department from the time of the discovery until the release is resolved.

If money is available in the fund, and if the owner or operator is eligible, the fund reimburses a portion of the department-approved cleanup and third party damage costs resulting from leaks from qualifying tanks.

Generally, eligible corrective action costs for a small farm or residential fuel tank or heating oil tank release before December 31, 1995 can be reimbursed up to $495,000, with the first $10,000 in costs being shared 50/50 with the owner/operator. If these tanks are double-walled systems, the fund reimburses 100 percent of the eligible costs up to $500,000. Note: Corrective action costs incurred by owners or operators more than two years prior to a request for reimbursement may not be reimbursed from the fund.

Generally, eligible corrective action costs from other and/or larger (more than 1,100 gallons capacity) petroleum storage tanks regulated by the act are reimbursed up to $982,500, with the first $35,000 in costs being shared 50/50 with the owner/operator. If these tanks are double-walled systems, the fund reimburses 100 percent of the eligible costs up to $1,000,000.

Statute: 75-11-301 through 321, MCA

Rule: ARM 17.58.101-343

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Remediation Division
Technical Services Bureau

PETROLEUM TANK RELEASE COMPENSATION BOARD

SUBDIVISIONS

SANITATION IN SUBDIVISIONS

1. Types of Activities Regulated

Condominiums, mobile home parks, recreational vehicle parks and divisions of land that create a parcel of less than 20 acres are subject to sanitary review. A person may not dispose of any lot within a subdivision, erect any facility for the supply of water or disposal of sewage or solid waste, erect any building or shelter in a subdivision that requires facilities for the supply of water or disposal of sewage or solid waste, or occupy any permanent buildings in a subdivision until the subdivision has been reviewed and approved. Review of subdivisions can be delegated to local officials. Subdivisions within the jurisdictional areas that have growth policies that meet the requirements described in statute (76-1-601, MCA) and for which municipal water, sewage disposal, solid waste and storm drainage will be provided are not subject to review, but will be required to provide a notice of certification of adequate municipal facilities (municipal facilities checklist).

Statute: 76-4-101 *et seq.*, MCA (Sanitation in Subdivisions Act)

Rule: ARM 17.36.101 *et seq.*; local regulations

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

LOCAL GOVERNMENT
Health Department

2. Application Requirements

An applicant planning to subdivide land must complete a joint subdivision application form for review by the DEQ and local health officials. The DEQ is the reviewing authority for the review of applications from counties that do not exercise the option of contracting for review, or for water, sewer or storm drainage systems that are not included in the county contracts. Applications for subdivisions that fall under the DEQ's authority must also be submitted to the local health department for concurrent review. Counties that contract with the DEQ to review subdivisions will first receive those applications (see Review Procedures, B.). At the completion of the contracted county's review, the county will forward the application to the DEQ for final review. In addition to the application, the following information is also required: a preliminary plat or final plat; lot layouts showing wells and drainfields, or connections to existing public water

and sewer systems or new multiple user or public sewage systems; an environmental assessment; and a subdivision approval statement from the local health officer.

Statute: 76-3-504, 603, 76-4-104 and 125, MCA

Rule: ARM 17.36.101-104

3. Review Procedures

A. On receipt of a subdivision application for which the DEQ has primary authority, the department has 60 days for final action. If an Environmental Impact Statement is required, final action must be taken within 120 days. See MONTANA ENVIRONMENTAL POLICY ACT, p. 116.

B. The DEQ may enter into agreements (contracts) with local governments regarding review of water supply, sewage, solid waste disposal and storm drainage facilities for subdivisions. Local government officials have 50 days to recommend action on the application to the DEQ. The DEQ then has 10 days to take final action. If the application is denied, the statutory time limits begin again once a response has been received.

Rule: ARM 17.36.105, 106 and 108

4. Criteria

The DEQ's rules set standards and procedures relating to size of lots, topography, geology, hydrology, type of facilities proposed and other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation and wildlife. There must be adequate water supply, drainage, sewage and solid waste disposal systems. The DEQ will issue a certificate of subdivision approval when it is satisfied that adverse impacts to state waters will not occur and the water supply is of adequate quantity, quality and dependability; the sewage disposal facility is sufficient in terms of capacity and dependability; the solid waste disposal and storm drainage plans and designs are in accordance with state and local laws and regulations.

Rule: ARM 17.36.101 *et seq.*

5. Fees

A schedule of fees, based on the complexity of the project, is set out in the rules. Contact the DEQ for the required fees or check the fee schedules in the rules or fee checklist

with the application materials.

Statute: 76-4-105, MCA

Rule: ARM 17.36.801 *et seq.*

6. **Additional Information**

If there is a denial of approval of the subdivision that relates to environmental health facilities, the aggrieved developer may request a hearing before the Board of Environmental Review.

Statute: 76-4-126, MCA

SUBDIVISION AND PLATTING ACT

1. **Types of Activities Regulated**

A. Divisions of land creating parcels less than 160 acres in size, condominiums and mobile home or recreational vehicle parks are regulated under the Montana Subdivision and Platting Act and rules pursuant to the act.

A title to subdivided land may not be sold or transferred until a certificate of survey or a final subdivision plat (if required) approved by the governing body has been filed with the county clerk and recorder.

B. Exemptions: There are numerous exemptions established in Title 76, Chapter 3, Part 2, MCA. In addition, a certificate of survey and certification that property taxes and special assessments have been paid, but not final subdivision plat approval, are required for the following divisions of land under certain conditions: divisions for the purpose of relocation of common boundaries; a one time gift or sale to an immediate family member (one per family member per county); and under certain conditions, transfers which include a covenant running with the land that provides exclusively for agricultural use of the land.

Some exemptions may not be allowed if their purpose is to evade the Montana Subdivision and Platting Act. Local governments may adopt evasion criteria as part of their subdivision regulations. These criteria are used in evaluating whether or not a proposed exemption represents an intention to evade the requirements of the act.

Statute: 76-3-101 *et seq.*, MCA

Rule: ARM 8.94.3001 *et seq.*

Contact: LOCAL GOVERNMENT
Clerk and Recorder
Planning Department
Health Department
Local Planning Board

DEPARTMENT OF COMMERCE
Community Development Division
Community Technical Assistance Program

2. Review Procedures

1) General Information: Cities, counties and towns are required to adopt subdivision regulations that establish procedures for submission and review of subdivision plats. The procedures vary depending on the size and nature of the proposed subdivision and whether or not a planning board has been appointed. Expedited review is allowed under certain conditions (see 4. Additional Information). A general overview of the procedures that apply to most major subdivisions (a *major subdivision* creates six or more parcels; a *minor subdivision* creates five or fewer parcels) is provided below

For jurisdictions with planning boards, the review may be two-tiered: the planning board conducts the initial review and acts in an advisory capacity, and the final decision is made by the governing body. For areas without planning boards, the governing body is the only reviewing entity. In most jurisdictions, a subdivision administrator (planner or sanitarian) will be the subdivider's initial contact person and liaison.

2) A preliminary plat and an environmental assessment must be submitted to the governing body. A fee may be assessed by the governing body to defray the expense of subdivision review. Although not required by law, many jurisdictions have a pre-application review process to ensure that the subdivider is aware of applicable requirements. Certain subdivisions are exempt from the requirement for an environmental assessment.

3) The local government, after notice and a public hearing, approves, conditionally approves or disapproves the preliminary plat. The governing body must make its final decision within 60 working days of presentation of the preliminary plat (35 days for minor subdivisions) unless an extension

is agreed to by the developer. If the governing body conditionally approves or denies approval of the subdivision, it must provide a written statement to the applicant that includes: the reason for the denial, the evidence to justify the decision and information about the appeal process.

4) In general, the developer of a major subdivision must donate a portion of the subdivided land for public parks. A cash contribution may be accepted in lieu of a land donation.

5) The preliminary plat may be approved for one to three years. Certain extensions are permitted.

6) The subdivision must be surveyed by a registered land surveyor. The final plat and certificate of title must be submitted to the governing body. The final plat must be approved by the governing body if it conforms with the conditions imposed on the preliminary plat and all property taxes and special assessments have been paid.

7) Compliance with the Sanitation in Subdivisions Act is required before a final plat that creates parcels of less than 20 acres may be filed with the County Clerk and Recorder. See SANITATION IN SUBDIVISIONS, p. 153.

8) The subdivider may bring an action in district court to recover damages if the governing body makes a decision that is arbitrary or capricious under the Subdivision and Platting Act. Certain aggrieved parties may appeal a decision on a preliminary or final plat to the district court within 30 days.

Statute: 76-3-504 through 507, 510, 601 through 612, 620, 621 and 625, MCA

3. Criteria

The Montana Subdivision and Platting Act establishes minimum requirements for local subdivision regulations. Local subdivision regulations include both procedural and substantive requirements. Among other things, the regulations must include standards for design of lots, streets, and roads; grading and drainage; and for water supply, sewage and solid waste disposal at least as stringent as Montana Department of Environmental Quality rules. If a growth policy has been adopted, the subdivision regulations must be made in accordance with the growth policy.

In reviewing a proposed subdivision, the governing body must consider: 1) compliance with local subdivision regulations; 2) compliance with surveying requirements; 3)

provision and recording of legal and physical access to each lot within the subdivision; 4) provision of easements for any planned utilities; and 5) the subdivision's effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and pubic health and safety (the *public interest criteria*). The local government may waive review of the public interest criteria in areas where a growth policy and zoning regulations are in place.

Statute: 76-3-504 and 608, MCA

4. Additional Information

Local subdivision regulations must provide for summary review procedures for minor subdivisions that meet certain requirements. Minor subdivisions eligible for summary review that are located within a jurisdiction that has a growth policy and county or municipal zoning regulations are exempt from the requirements to hold a public hearing on the preliminary plat as well as review of the public interest criteria listed in the previous section. The governing body must make a decision regarding a subdivision eligible for summary review within 35 calendar days of submission of the application.

UTILITIES

HIGHWAY UTILITY EASEMENTS

1. Types of Activities Regulated

Utility facilities used to transport or distribute hydrocarbons, electric power, energy, communication signals, water and sewage are authorized to occupy highway rights-of-way if they conform to certain standards approved by the Montana Department of Transportation (MDT), (see also HIGHWAY ENCROACHMENTS, p. 63). All other facilities are considered privately owned and must receive a permit from the MDT before being constructed in a highway right-of-way. City councils and Boards of County Commissioners may grant similar approval along city streets and county roads.

Statute: 7-13-2101 and 4101, MCA

Rule: ARM 18.7.201 *et seq.* and 18.7.221-241

Contact: CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF TRANSPORTATION
Area Maintenance Bureau

2. Permitting Procedures

1) The utility must prepare and submit a notice of its proposed occupancy to the appropriate division office of the MDT. The notice must be submitted in triplicate, accompanied by utility plans showing the locations of the proposed facilities in relation to the highway.

2) The division supervisor or chief will review the occupancy proposed by the utility. If the proposal conforms with certain standards, specified by rule, the supervisor must sign it, and if not, the supervisor must specify in writing the reasons the proposal does not comply. Standards include preserving the natural environment to the greatest extent possible, maintaining the facility and avoiding hazards or conflicts between the highway and the facility.

3) The utility may resubmit its proposal after making the necessary changes to comply with the standards.

Rule: ARM 18.7.232

IMPROVEMENT AND UTILITY DISTRICTS

1. Types of Activities Regulated

A number of means of funding are available to cities and counties for the construction of capital improvements such as streets, malls, lighting, parking, water and sewer systems, etc. Provisions vary, but typically, an improvement district may be established by the local government. In some cases, a petition by residents of the district is required. A board of directors may be elected or appointed, or the local government itself may be the authority. The district may sell bonds to finance the improvements, and an assessment is levied on benefitted property to service the bond debt and to operate and maintain the improvements. In some cases, user fees may be assessed. Potential developers should contact local authorities to determine applicable requirements.

Statute:

County Water/Sewer Districts:
7-13-2201 *et seq.*, MCA
Industrial Revenue Bonds:
90-5-101 *et seq.*, MCA
Lighting Districts:
7-12-2201 *et seq.*, 7-12-4301 *et seq.*, MCA
Metropolitan Sanitary/Storm Sewer Districts:
7-13-101 *et seq.*, MCA
Municipal Revenue Bonds:
7-7-4401 *et seq.*, MCA
Municipal Sewage/Water Systems:
7-13-4301 *et seq.*, MCA
Public Sewer Systems:
7-13-4201 *et seq.*, MCA
Overhead Facilities Converted to Underground Location:
69-4-301 *et seq.*, MCA
Rural Improvement Districts:
7-12-2101 *et seq.*, MCA
Special Improvement Districts:
7-12-4101 *et seq.*, MCA
Street Parking Districts:
7-12-4501 *et seq.*, MCA

UTILITY AND MOTOR CARRIER REGULATION

The Public Service Commission (PSC) regulates the rates and services of privately owned public utilities and has the authority to inquire into their management. Public utilities are defined as entities owning, operating or controlling a plant or equipment for delivering or furnishing heat, light, power, water, sewer or telecommunications services. Electricity and gas suppliers are subject to different regulations, (see below).

The PSC regulates certain types of intrastate motor carriage transportation--issuing Certificates of Public Convenience and Necessity to carriers of passengers, household goods and garbage. Single-state motor carrier licenses are issued through the Montana Department of Transportation, Motor Carrier Services Division. To receive a license, carriers traveling interstate must show proof of insurance with the Federal Highway Administration.

Utilities owned or controlled by a municipality, town or village or by a county or city-county water or sewer district or water or sewer association are excluded from PSC regulation. The rates and services for these systems are determined by the local government or district. PSC actions are exempt from MEPA review.

Statute: 61-3-708 through 710, MCA (single-state registration)
69-3-101 *et seq.*, 69-7-101 *et seq.* and 69-12-101, *et seq.,* MCA

Contact: PUBLIC SERVICE COMMISSION
Utility Division

DEPARTMENT OF TRANSPORTATION
Motor Carrier Services Division

MUNICIPAL GOVERNMENT
City or City-County water or sewer district

ELECTRICITY AND GAS SUPPLIERS

The Public Service Commission (PSC) is authorized to license electricity and gas suppliers. The PSC must promulgate and enforce rules that identify suppliers and ensure that the supply is provided as offered and is of adequate quality, safety and reliability. The Commission may revoke or suspend a license on a complaint or on its own investigation after conducting a hearing. For electricity suppliers, the PSC may go to court for fines for violations, which include fraud and deceptive practices, switching without the customer's permission or a licensee's failure to provide an adequate supply.

Statute: 69-8-403(4) and (7), 404 and 408, MCA (electricity suppliers)
69-3-1405, MCA (gas suppliers)

Contact: PUBLIC SERVICE COMMISSION
Utility Division

UTILITY LINES

1. Types of Activities Regulated

A. Construction of Electric/Telecommunication Lines; Underground Facilities

The city or town council may regulate the erection and stringing of wires, rods, or cables in the streets or alleys or within the limits of the city or town, but not within highway rights-of-way. Corporations, persons or public bodies owning or operating electric power or telecommunication service and supply facilities are authorized to install and construct power or telecommunications lines or wires along and on any public roads, streets and highways in the state, and to erect posts, piers and abutments necessary to support the wires, provided that they do not endanger the public in its use of roads, streets or highways. An entity exercising the right to use these public rights-of-way to construct electric distribution lines and facilities in a new service area must install underground lines where technically and economically feasible.

Landowners, cities, towns, counties, rural electric cooperatives or public utilities that wish to convert existing overhead electric and communication facilities to underground locations may institute special improvement district proceedings. The governing body on its own initiative or on a petition signed by 60 percent of the property owners owning 60 percent of the land of a proposed district can pass a resolution, make a study, and make the study available for inspection in the governing office.

Statute: 7-13-4106, 69-4-101 and 102 and 69-4-301, *et seq.*, MCA

Contact: CITY OR TOWN COUNCIL
BOARD OF COUNTY COMMISSIONERS
Operators of lines

The Public Service Commission (PSC) enforces the National Electric Safety Code, which governs all construction (overhead and underground electrical supply and communication lines) involving wires for power, heat, light, telephone, telegraph or signal transmission or reception. There are

exceptions for railroad electrification and private construction of wires less than 450 volts. Cities and towns in the state may not enact any ordinance that conflicts with any provisions of the Code, and any such conflicting ordinance in existence is void.

Statute: 69-4-102 and 69-4-201, *et seq.*, MCA

Contact: PUBLIC SERVICE COMMISSION
Utility Division

B. Moving/Raising or Cutting Overhead Utility Lines or Poles

Persons moving buildings, equipment or other structures that will require the moving of utility overhead lines, wires or poles must give 10 days written notice of the proposed time and place of moving the structure to the owner of the wires or poles. The owner must give the mover a written estimate of the cost of the action at least three days before the move. The owner of the poles or wires must then furnish competent workers to remove the poles and/or raise or cut the wires as needed.

The PSC determines the reasonable expenses for raising or cutting the wires or moving the poles, which are shared equally by the structure mover and the utility owner, except in certain situations (see 1. and 2. below). If, after notice, the owner refuses to raise or cut the wires or move the poles, then the structure mover may ensure that competent workers raise or cut the wires or move the poles, and these costs must be paid by the owner of the poles or wires. All the necessary and reasonable expenses incurred to move/raise/cut overhead utility lines and poles, as determined by the PSC, must be paid by 1) the owners of prefabricated structures built to be moved from the place of fabrication; and 2) structure movers moving the sixth and each subsequent structure exceeding 25 feet in height (while being moved) that is to be moved from a single site. Structures moved in a group requiring only a single line cut or movement count as a single structure move.

The owner of agricultural lands may petition the district court for permission to relocate overhead lines for the purposes of installing an agricultural improvement. After a hearing, the court may grant or deny the petition. The owner of the land must pay the costs of relocating the overhead utility line.

Statute: 69-4-401, *et seq.* and 69-4-601, *et seq.*, MCA

Rule: ARM 38.5.2401, *et seq.*

Contact: PUBLIC SERVICE COMMISSION
Utility Division

PIPELINES: UNDERGROUND EXCAVATION

1. Types of Activities Regulated

A. Common Carrier Pipelines

An entity owning, operating or managing a pipeline within the state to transport crude petroleum, coal (or products) for others, or intending to do so, may obtain the right to construct and operate pipelines in public streams or highways by filing a written agreement with the PSC to become a common carrier pipeline and assuming the attendant duties and obligations. These pipelines must follow statutory condemnation procedures. The pipelines may not use public streets or alleys without obtaining permission from the city.

Statute: 69-13-101, *et seq.*, MCA

Contact: PUBLIC SERVICE COMMISSION;
CITY OR TOWN COUNCIL;
BOARD OF COUNTY COMMISSIONERS

B. Natural Gas Pipelines

The PSC enforces the safety regulations adopted under the Natural Gas Safety Act of 1968, as amended. This authority extends over intrastate pipeline operators and systems. The PSC also has the power to investigate all methods and practices of pipeline owners and operators, to make report filing requirements, to issue informal reports of probable violations and orders to show cause, to establish formal enforcement procedures, to hold hearings and to enter onto the property and inspect books and records relevant to the PSC's enforcement responsibilities.

Statute: 69-3-207, MCA

Contact: PUBLIC SERVICE COMMISSION
Utility Division

C. Underground Excavations

Prior to moving earth, rock or other ground material, excluding surface road grading, an excavator must first obtain information from a one-call notification center on the possible location of any underground facility. Every public utility, municipal corporation or anyone with the right to bury underground facilities must be a member of a one-call notification center where the facilities are located. Before beginning, the excavator must then notify the owners of underground facilities through the center. The owners must mark the locations of the facilities within two business days or respond immediately if informed it is an emergency. If the excavator has not excavated within 30 days, the excavator must request relocations and marks and is responsible for the associated costs. Architects and engineers designing projects requiring excavation in a public right-of-way or easement must also obtain information on underground facilities from the owners and then make the information part of the plan.

Statute: 69-3-207and 69-4-501 *et seq.*, MCA

Contact: CITY OR TOWN COUNCIL; BOARD OF COUNTY COMMISSIONERS; PUBLIC SERVICE COMMISSION

WATER

If the project requires water use, a water supply, or discharges wastes into state waters, the following regulations may apply. See also, IMPROVEMENT AND UTILITY DISTRICTS, p. 160.

DAMS AND RESERVOIRS

1. Types of Activities Regulated

The Federal Energy Regulatory Commission licenses and inspects hydropower dams (see HYDROELECTRIC POWER DEVELOPMENT p. 42). The U.S. Department of the Army, Corps of Engineers should be contacted to ensure compliance with regulations governing navigable waters (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 12). If the proposed dam facility will be on a stream located on state-owned lands, a lease or license must be obtained from the Board of Land Commissioners (see STATE LANDS, p. 10). The Montana Department of Natural Resources and Conservation (DNRC) should be contacted to acquire any necessary water permit or change authorization (see WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 176).

A person proposing to construct a dam or reservoir must submit an application to the DNRC for a determination of whether the dam or reservoir is classified as high-hazard.[1] A dam owner must also obtain a dam safety construction permit from the DNRC prior to constructing, enlarging, removing, extensively repairing or altering a high-hazard dam. Before operating a high-hazard dam, a dam safety operation permit must be obtained from the department. There are several categories of dams that are exempt from these requirements, including federal dams and reservoirs and dams regulated by the Federal Energy Regulatory Commission. At its discretion, or upon complaint, the DNRC may inspect any dam on state waters.

Statute: 85-15-105 *et seq.*, MCA (Montana Dam Safety Act)

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Operations Bureau

[1] A high-hazard dam is a dam or reservoir with an impounding capacity of 50 acre-feet or more at the maximum normal operating pool , the failure of which would be likely to cause loss of life..

2. **Application Requirements**

A. For hazard classification, the dam owner must apply for a determination from the DNRC. The owner must submit an application to the department with information describing the dam or reservoir, including its capacity, purpose and location.

B. For a construction permit, the dam owner must submit an application form, an engineering design report and three sets of construction plans and specifications.

C. For an operation permit, the dam owner must submit an application that includes an operation plan. An inspection report is also required except for in the case of a new dam for which a construction permit has been issued.

Statute: 85-15-209 through 212, MCA

Rule: ARM 36.14.201-204, 36.14.301 *et seq.* and 36.14.401-403

3. **Permitting Procedures**

A. The DNRC will notify the applicant for a dam hazard classification of its receipt of the application within 10 days and will advise the applicant if it requires additional information. The department will then schedule an inspection with the dam owner to gather information to make a hazard determination. The department will base its decision on the consequences of dam failure, not its condition, probability or risk. The DNRC has 60 days after the receipt of a completed application to make its determination.

B. Within 30 days after receipt of an application for a construction permit, the DNRC will notify the applicant of any errors or omissions and request any additional information necessary to evaluate the application. The DNRC has 60 days after receiving the application to issue the permit, deny the permit, or issue the permit with conditions or modifications.

C. Within 30 days after receipt of an application for an operating permit, the DNRC will notify the applicant of any errors or omissions and request any additional information necessary to evaluate the application. After receipt of all required information, the department has 90 days to issue or deny the permit. The permit is valid for up to five years.

Rule: ARM 36.14.205-208, 36.14.301 *et seq.* and 36.14.401 *et seq.*

4. Fees

There is a $125 inspection fee for a hazard classification. There are no application fees for either the construction or operation permit.

Rule: ARM 36.14.204

PUBLIC WATER SUPPLY

1. Types of Activities Regulated

A water system that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year is regulated as a public water supply by the Montana Department of Environmental Quality (DEQ). Plans and specifications for public water supply wells must be approved, as well as plans for construction, alteration or extensions of any water system or treatment facilities. Operators in charge of community public water supplies and nontransient noncommunity public water supplies must be certified by the DEQ.

Water supply systems for food and lodging establishments that do not serve 15 or more service connections or 25 or more people for any 60 or more days in a calendar year are regulated by the Montana Department of Public Health and Human Services.

Statute: 37-42-101, *et seq.*, MCA (water treatment plant operators)
50-50-101, *et seq.*, MCA (private systems for food and lodging establishments)
75-6-101 *et seq.*, MCA (public water supply systems)

Rule: ARM 17.38.101 and 102

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Community Services Bureau

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Health Policy and Services Division
Food and Consumer Safety Section

2. Application Requirements

1) Prior to operating, constructing, altering or extending a public water supply, the applicant must submit an engineering report along with the

necessary plans and specifications to the DEQ or a delegated division of local government for review and written approval.

2) The engineering report, plans and specifications for a community public water supply must be prepared and designed by a professional engineer according to specific engineering criteria. An engineer may be required to prepare plans and specifications for a noncommunity public water supply when the complexity of the proposed system warrants that level of involvement by an engineer.

3) The applicant must identify the legal entity responsible for the ownership, operation, maintenance and perpetuation of the public water supply system. If a change of ownership occurs, the DEQ must receive written notice within 30 days.

4) The department has 60 days to approve, approve with conditions, deny the application, or to request more information. The DEQ or a delegated division of local government will issue a written approval for a public water supply system if it determines that the design report, plans and specifications are complete and the applicant has complied with department rules.

5) If construction, alteration or extension of the community public water supply system has not been completed within three years after approval, the applicant must resubmit all of the information required in 1-3 above.

6) The proposed public water supply system must comply with the Montana Water Quality Act (75-5-101 *et seq.*, MCA). See WATER QUALITY PERMITTING, p. 180.

7) Within 90 days after the construction, alteration or extension of the public water supply system, the project engineer must certify to the DEQ that the required work was completed according to the approved plans and specifications.

Rule: ARM 17.38.101

3. Fees

An annual active service connection fee is required and must be postmarked or delivered to the department by March 1st. The annual fee for a community public water supply system is $2 per service connection, with a $100 fee minimum. The annual fee for a

nontransient, noncommunity public water supply system is $100. The annual fee for any other noncommunity public water supply system is $50.

Water treatment operators must pay a $70 application fee that entitles the applicant to take one or more exams for 12 months from the date of application. Each exam is $70. The annual renewal fee is $30 and must be postmarked or delivered to the department by June 30th.

Statute: 37-42-304 and 75-6-108, MCA

Rule: ARM 17.38.248 and 17.40.212

4. Additional Information

Montana Source Water Protection Program (Wellhead Protection Program)

The DEQ has the authority to administer a wellhead protection program that allows for the certification of local wellhead protection areas and the review of wellhead protection area ordinances. A supplier of a public water supply system may voluntarily submit a petition to the department to establish a wellhead protection program for the system. The governing body of a county in which a wellhead protection area or areas exist may adopt an ordinance to regulate, control and prohibit conditions that threaten the quality of water used within the wellhead protection area or areas.

Statute: 75-6-120, MCA

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Planning, Prevention and Assistance Division
Pollution Prevention Bureau

SEPTIC TANKS, CESSPOOLS AND PRIVIES

1. Types of Activities Regulated

A person may not engage in the business of cleaning cesspools, septic tanks, portable toilets, privies, grease traps, car wash sumps, or similar treatment works, or disposal of septage and other wastes from these sources, unless licensed by the department. Hazardous wastes are regulated separately (see HAZARDOUS WASTE DISPOSAL, p. 138).

Statute: 75-10-1211 through 1223, MCA

Rule: ARM 17.50.801 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Community Services Bureau

2. Application Requirements

Applications for licenses must be made to the DEQ on forms provided by the department. The application must contain the licensee's name and address; a list of counties in which business will be conducted; a list of disposal sites; and the estimated volume of septage and other wastes to be disposed of at each disposal site annually. The DEQ requires additional information that is described in department rules for each disposal site proposed for use by the applicant. Licenses expire on December 31st of each year and are nontransferable.

Statute: 75-10-1211 and 1212, MCA

Rule: ARM 17.50.803

3. Permitting Procedures

The DEQ will review an application for a new or renewed license to ensure that it is complete. If additional information is required, the DEQ will send the applicant written notification. After receiving a completed application, the DEQ will notify the relevant local health officer or designated representative. The department may not issue a license until 14 days after notifying the local health officer or designated representative in order to allow them a period for review and comment. A license is issued within 30 days after the DEQ's decision to approve the license.

4. Fees

The annual license fee is $125. A late fee of $125 is assessed by the DEQ for failure to renew a license before January 31st of the year following the license expiration.

Statute: 75-10-1201 through 1223, MCA

Rule: ARM 17.50.803

SEWER SYSTEMS

1. Types of Activities Regulated

Approval from the Montana Department of Environmental Quality (DEQ) is required to construct, alter or extend a public sewer system serving 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year. Operators in charge of public wastewater treatment systems must be licensed by the DEQ.

Statute: 75-6-101 *et seq.*, MCA

Rule: ARM 17.38.101 and 102

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Community Services Bureau

BOARD OF WATER AND WASTEWATER OPERATORS

2. Application Requirements

1) Prior to operating, constructing, altering or extending a public sewer system, the applicant must submit an engineering report along with the necessary plans and specifications to the DEQ or a delegated division of local government for review and written approval.

2) The engineering report, plans and specifications for a public sewer system must be prepared and designed by a professional engineer licensed in the state of Montana according to specific engineering criteria developed by the department.

3) The applicant must identify the legal entity responsible for the ownership, operation, maintenance and perpetuation of the public sewer system. If a change of ownership occurs, the DEQ must receive written notice within 30 days.

4) The department has 60 days to approve, approve with conditions, deny the application, or to request more information. The DEQ or a delegated division of local government will issue a written approval for a public sewer system if it determines that the design report, plans and specifications are complete and the applicant has complied with department rules.

5) If construction, alteration or extension of the public sewer system has not been completed within three years after approval, the applicant must resubmit all of the information required in 1-3 above.

6) The proposed public sewer system must comply with the Montana Water Quality Act (75-5-101 *et seq.*). See WATER QUALITY PERMITTING, p. 180.

7) Within 90 days after the construction, alteration or extension of the public sewer system, the project engineer must certify to the DEQ that the required work was completed according to the approved plans and specifications. The project engineer must also provide *as built* drawings at this time.

Rule: ARM 17.38.101

3. Fees

Wastewater treatment operators must pay a $70 application fee that entitles the applicant to take one or more exams for 12 months from the date of application. Each exam is $70. The annual renewal fee is $30 and must be postmarked or delivered to the department by June 30th.

Rule: ARM 17.40.212

WATER APPROPRIATIONS - GROUND WATER

See WATER APPROPRIATIONS - SURFACE DIVERSIONS on the following page for a more complete description of the water rights permitting process.

1. Types of Activities Regulated

A **ground water appropriation** that will exceed 35 gallons of water a minute or 10 acre-feet of water a year, or that is inside an established controlled ground water area or applicable compact area,[1] must be permitted by the Montana Department of Natural Resources and Conservation (DNRC) before the water is put to beneficial use. A combined appropriation of two or more wells or developed springs from the same source that is more than 35 gallons per minute or 10 acre-feet per year also requires a permit. See WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 176 for more information on beneficial uses and exceptions.

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[1] A compact area is one in which the Montana Reserved Water Rights Compact Commission has completed a negotiated settlement with a tribal group or federal agency.

A **change in place of use, point of diversion, place of storage or purpose of use** of an appropriated water right also requires approval by the DNRC. Certain *replacement* wells are exempt from this requirement as long as they meet several conditions established by the DNRC.

The DNRC may not grant a permit to an applicant to appropriate ground water in excess of 3,000 acre-feet per year without legislative affirmation of the department's decision, except for municipal use, public water supplies or for irrigation of cropland owned and operated by the applicant.

Statute: 85-2-302, 306, 311, 317, 402 and 508, MCA

Rule: ARM 36.12.102 and 103

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Rights Bureau Office in Helena; or local Water Resources Regional Offices (for forms and assistance) located in Helena, Missoula, Kalispell, Havre, Glasgow, Billings, Lewistown and Bozeman (see APPENDIX 2)

2. Application Requirements

A. An application for a **ground water appropriation** exceeding 35 gallons a minute or 10 acre-feet per year, or one that is within an established controlled ground water area or applicable compact area, must be made on forms available from the DNRC Water Rights Bureau Office in Helena and the eight local Water Resources Regional Offices. An incorrect or incomplete application does not lose its filing priority if it is corrected and refiled within 30 days or as the DNRC may allow, up to three months. An application not corrected within three months is by law terminated.

B. A person appropriating 35 gallons of water a minute or less, with an annual volume of 10 acre-feet or less, is not required to obtain a permit before beginning a project. However, within 60 days after the well is completed or the ground water spring is developed and the water put to beneficial use, the individual must file a **notice of completion of ground water development** with the DNRC so a certificate of water right can be issued. See also WATER WELLS, p. 187.

C. For **change authorizations**, an application must be submitted to the DNRC on forms available from the department. For replacement wells

that do not require prior approval from the DNRC, a **notice of replacement well** must be filed with and authorized by the department after the replacement well is completed and the water put to beneficial use.

D. If a person appropriating water does not have a possessory interest in the property from which the water will be withdrawn, that person must notify the landowner 30 days before any related construction or appropriation begins.

Statute: 85-2-302, 306, 317, 402, 508 and 516, MCA

Rule: ARM 36.12.102 and 103

3. Permitting Procedures

For permitting procedures for obtaining a water right permit or a change authorization, see WATER APPROPRIATIONS - SURFACE DIVERSIONS on the following page.

4. Additional Information

A. Controlled Ground Water Area

Controlled ground water areas may be established by the DNRC on its own motion or upon petition. Several controlled ground water areas have been established. In a controlled ground water area, anyone wishing to appropriate water must apply for and receive a permit. Some controlled ground water areas have additional restrictions. Contact the DNRC to determine the location of controlled ground water areas and to determine special requirements applicable to a particular controlled ground water area.

Statute: 85-2-506 through 508, MCA

B. Coal Bed Methane Wells

Ground water produced as a result of **coal bed methane development** has special management requirements. The produced water must be put to beneficial use, reinjected to an acceptable subsurface area, discharged to the surface or surface waters, or managed by other legal means. Developers of coal bed methane wells must offer mitigation agreements to area appropriators whose point of diversion is within one mile of the coal bed

methane well or one-half mile of a well that is adversely affected by the coal bed methane well.

Statute: 85-2-521, MCA

WATER APPROPRIATIONS - SURFACE DIVERSIONS

1. Types of Activities Regulated

State waters may be appropriated for *beneficial uses.* These uses include, but are not limited to, agriculture, domestic, fish and wildlife, mining, industrial, municipal, power generation and recreation. A **permit to appropriate water** for a beneficial use is required from the Montana Department of Natural Resources and Conservation (DNRC) before beginning a project that proposes the use of unappropriated water. Application forms are available from the DNRC Water Rights Bureau Office in Helena and the eight local Water Resources Regional Offices.

An applicant may apply for a **temporary permit to appropriate water** if the use is for a limited period of time, i.e., for road construction or oil and gas exploration. The applicant must meet the criteria listed in 3.(2) on the following page. Permits expire on the date noted in the application.

A **change in place of use, point of diversion, place of storage or purpose of use** of an appropriated water right also requires approval by the DNRC. A change of ownership of a water right must be disclosed with a realty transfer certificate and recorded with the DNRC by filing a Water Right Ownership Update within 60 days of filing the deed.

The state, the federal government or their subdivisions may apply for **reservations of water** for existing or future beneficial uses, or to maintain a minimum flow, level or quality of water. The application must be filed with the DNRC which has the authority to grant, deny or modify the reservation.

See 6. Additional Information for exceptions to the permitting requirements.

Statute: 85-2-301, 302, 306, 313-317, 402 and 424, MCA

Rule: ARM 36.12.101-106 and 36.16.103-106

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Rights Bureau Office in Helena; or local Water Resources Regional Offices (for forms and assistance) located in Helena,

Missoula, Kalispell, Havre, Glasgow, Billings, Lewistown and Bozeman (see APPENDIX 2)

2. Application Requirements

An application for a **beneficial water use permit** or an application to **change a water right** must be made on forms prescribed by the DNRC. An incorrect or incomplete application does not lose its filing priority if it is corrected and refiled within 30 days or as the DNRC may allow, up to three months. An application not corrected within three months is by law terminated.

To apply for a **water reservation**, the state or a political subdivision or the federal government must submit an application to the DNRC. Individuals may not make this application. Applications are processed and investigated by the department. The DNRC must make findings concerning the purpose and need for the water reservation, the amount of water necessary and whether the proposed use is in the public interest.

Statute: 85-2-301 *et seq.*, and 85-2-402, MCA

Rule: ARM 36.12.102, 103 and 36.16.101-118

3. Permitting Procedures

1) The application process for a **permit or change approval** may take six months or longer. The DNRC must prepare a notice on the application and publish it once in an area newspaper unless it finds from available information that the proposed appropriation will not adversely affect the rights of others.

2) Individuals may file written objections to the permit or change application within the time period stated on the public notice associated with the application. An objection must be correct and complete and include the name and address of the objector and facts showing that one or more of the criteria in 85-2-311, MCA are not met. These criteria are:

   ❶ There is water physically available at the proposed point of diversion in the amount that the applicant seeks to appropriate;

   ❷ Water can reasonably be considered legally available during the period in which the applicant seeks to appropriate, in the amount requested;

❸ The water rights of a prior appropriator under an existing water right, a certificate, a permit, or a state water reservation will not be adversely affected;

❹ The proposed means of diversion, construction and operation of the appropriation works are adequate;

❺ The proposed use of water is a beneficial use; and

❻ The applicant has possessory interest or the written consent of the person with the possessory interest, in the property where the water is to be put to beneficial use.

3) If the DNRC determines that objections to an application are valid, it will hold a public hearing unless an agreement is reached by the parties.

4) If a hearing is held on objections to an application, a proposed order will be prepared and sent to all parties of record in the case. A party who disagrees with the order may file an exception and request an oral argument hearing before a final order is issued. The final order may be appealed by the applicant or objector to the district court within 30 days after receiving notice of the decision.

5) The DNRC will issue a decision on the permit within 120 days after publication of the notice if no objections have been received, or within 180 days if a hearing is held or objections have been received. The department may extend these deadlines up to 60 days on agreement of the applicant, if an Environmental Impact Statement (see MONTANA ENVIRONMENTAL POLICY ACT, p. 116) is required or in other extraordinary cases. If no objection to the application is filed but the DNRC determines that the application should be approved in a modified form or denied, it will serve a statement of opinion to the applicant, along with notice that the applicant may file a request for a hearing within 30 days.

6) The DNRC may issue a permit for less than the amount of water requested, but in no case may it issue a permit for more water than is requested or that can be beneficially used. The DNRC must state the time limits for commencement of the appropriation work, completion of construction and actual application of the water to the proposed beneficial use.

7) PERMITS ARE PROVISIONAL UNTIL ALL CLAIMS OF EXISTING WATER RIGHTS IN A BASIN OR SUBBASIN HAVE BEEN

ADJUDICATED IN THE STATE WATER COURT.[1]

Statute: 85-2-307 through 315 and 402, MCA
2-4-101 *et seq.*, MCA (Montana Administrative Procedure Act)

Rule: ARM 36.12.201-234 and 36.16.107

4. **Fees**

Fees vary according to the type of application and are due at the time the application is submitted. For a schedule of fees see ARM 36.12.103 or contact the DNRC.

Statute: 85-2-113, MCA

Rule: ARM 36.12.103

5. **Criteria**

The DNRC must base its decision for issuance of a permit on the criteria found in 85-2-311, MCA. Approval for an Application to Change a Water Right is based on the criteria in 85-2-402, MCA. All permits and change applications are subject to prior existing water rights and the final determination of those rights. Other conditions may be imposed to protect the rights of other water right appropriators on a case-by-case basis.

Statute: 85-2-311, 312 and 402, MCA

Rule: ARM 36.12.104

6. **Additional Information**

Closed Basins

Several highly appropriated basins have been closed by the Legislature or the DNRC. Issuance of water use permits in these basins is limited, although issuance of permits for some uses is usually allowed. Contact the DNRC to determine the

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[1] Permits for new water use have been required since July 1, 1973. Water rights claimed before that date are currently being quantified and recorded through a statewide water adjudication process. Contact the Montana Water Court or the DNRC for adjudication procedures.

location of basin closures and to determine the limits that apply to a particular basin.

Statute: 85-2-319, 85-2-321 through 323, 85-2-329 through 337, 85-2-341 through 344, 85-2-350 through 351 and Title 85, Chapter 20.

Rule: ARM 36.12.1001 *et seq.*

B. Exceptions:

A permit to appropriate water is not required for construction of a pit or reservoir for use by livestock if: 1) the pit or reservoir has a maximum capacity of less than 15 acre-feet of water, 2) the impoundment is constructed on and will be accessible to a parcel of land that is owned or controlled by the applicant and that is at least 40 acres in size, and 3) the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream. However, an application for a **provisional permit for a completed stockwater pit or reservoir** must be submitted to the DNRC within 60 days after construction of the pit or reservoir. If the pit or reservoir adversely affects prior water rights, the DNRC may require modifications or revoke the permit.

Approval from the DNRC is not required for leasing all or part of an appropriation right for **road construction or dust abatement** as long as the department's requirements for the lease are met. The public must be given notice in the manner described in statute at least 30 days before the use of the water, and the lease agreement must be submitted to the DNRC at least two days before the use of the water. In addition to other conditions, the lease term may not exceed 90 days or 60,000 gallons of water per day.

Statute: 85-2-306 and 410, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Rights Bureau

WATER QUALITY PERMITTING

The Department of Environmental Quality, under the authority of the Montana Water Quality Act (75-5-101 *et seq.*, MCA), regulates the discharge of pollutants into state waters through the adoption of water quality standards and the permit application

process. Water quality standards specify what changes in water quality are allowed during the use of state waters and establish a basis for wastewater discharge permitting.

DISCHARGE PERMITS

1. Types of Activities Regulated

A Montana Pollutant Discharge Elimination System (MPDES) permit or a Montana Ground Water Pollution Control System (MGWPCS) permit is required from the Montana Department of Environmental Quality (DEQ) to construct, modify or operate a disposal system or to construct or use any outlet for discharge of sewage, industrial or other wastes into state surface or ground water. A permit is not required for the discharge of certain wastes under specific circumstances (see ARM 17.30.1310 and 75-5-401(1)(b) and 75-5-401(5), MCA).

Statute: 75-5-101 *et seq.*, MCA (Montana Water Quality Act)

Rule: ARM 17.30.1301 *et seq.* (MPDES permit)
ARM 17.30.1001 *et seq.* (MGWPCS permit)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

2. Application Requirements

MPDES Permits - General: The DEQ may issue a general MPDES permit to cover all facilities that engage in a general type of activity in a discrete geographical region or statewide. These categories include, among others, concentrated animal feeding operations, storm water point sources,[1] suction dredge mining operations and construction dewatering operations. Applications must be submitted 30 days before the initiation of a proposed discharge.

MPDES Permits - Individual: Individual MPDES permits are required for facility-specific industrial, commercial or municipal discharges. An application must be filed at least 180 days prior to the operation of a point source. Application information must include plans and specifications, site plans, descriptions of adjacent state waters, soil conditions, ground water characteristics, process and waste flow diagrams and the volume and nature of projected discharges. Storm water discharges may be incorporated

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[1] A point source is an identifiable point where pollutants are discharged, including pipes, ditches, channels, sewers and tunnels.

into this application, permitted under a separate individual MPDES permit or permitted under a general MPDES permit.

MGWPCS Permits: An application for a Montana Groundwater Pollution Control System (MGWPCS) permit must be filed at least 180 days prior to the operation of a point source. Application information must include a site plan; the location of treatment works and disposal systems; the location of adjacent surface waters; a list of surface owners and lessees, water supply wells and springs and a description of ground water quality and uses within one mile of the source; and other information that the department considers necessary to process the application.

Statute: 75-5-401 *et seq.*, MCA

Rule: ARM 17.30.1301, 1341 and 1023

3. **Permitting Procedures**

MPDES General Permits

1) Within 30 days of receiving a completed application, the DEQ will issue an authorization to operate under a general MPDES permit, or notify the applicant that the source does not qualify, citing one or more of the reasons listed in ARM 17.30.1341(4)(a-e). The public must be given notice and a 30-day comment period allowed if the source can not qualify to operate under a general MPDES permit.

2) If an authorization to operate under a general MPDES permit is denied, the DEQ will process the application as an individual MPDES permit, unless the application is withdrawn.

3) All MPDES permits are issued for a fixed term, not to exceed five years.

MPDES Individual and MGWPCS Permits

1) On receipt of the permit application, the DEQ must make a tentative determination with respect to issuance or denial of an MPDES or MGWPCS permit. The DEQ is then required to issue a public notice to inform interested persons of the proposed discharge and of the tentative determination. At least 30 days are provided for written comments from the public regarding the application. Public hearings may be held on the DEQ's own initiative or at the request of another agency or interested person.

2) The department has 60 days to review new permit applications for completeness and 30 days for completeness review of deficiency responses. During the processing of applications, the DEQ also determines discharge limits and the length of mixing zones[1] to ensure water quality standards are met. Hearings must be held in the geographical area of the proposed discharge.

3) If the DEQ denies the discharge permit, the applicant may appeal the decision to the Board of Environmental Review (BER). The hearing must be held within 30 days of the receipt of the written request.

4) All MPDES permits are issued for a fixed term, not to exceed five years. All MGWPCS permits are issued for a fixed term, not to exceed 10 years.

Statute: 75-5-403, MCA

Rule: ARM 17.30.1301 *et seq.*, and 17.30.1024 *et seq.*

4. Fees

The DEQ assesses fees to cover a portion of the costs of implementing the water quality program. For a schedule of fees see ARM 17.30.201.

Statute: 75-5-516, MCA

Rule: ARM 17.30.201

5. Additional Information

Short-term Exemptions: The DEQ may authorize short-term turbidity standards for construction projects that affect water bodies (318 standards). The DEQ may also authorize short-term exemptions from the water quality standards (308 exemptions) for the purposes of emergency remediation that has been approved, authorized or required by the DEQ and application of an EPA- registered pesticide when it is used to control nuisance aquatic organisms or to eliminate undesirable and nonnative aquatic species. The department must issue the authorization before the applicant may begin the activity.

Leaching pads, tailing ponds or water, waste or product holding facilities must be designed and constructed, operated and maintained to prevent discharge, seepage,

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[1] Mixing zones are established areas where water quality standards may be exceeded while a discharge is mixed with receiving waters.

drainage, infiltration or flow which may result in the pollution of state waters. Plans and specifications for tailings ponds, leaching pads and holding facilities used in ore processing must be submitted to the DEQ for review and approval at least 180 days prior to the beginning of operations.

Statute: 75-5-308 and 75-5-318, MCA

Rule: ARM 17.30.637

6. Criteria

All discharges of pollutants into state waters authorized by a discharge permit must be consistent with the conditions of the permit. The discharge of pollutants into state waters in excess of the permit's restrictions constitutes a violation of the permit. State waters must be free of discharges that settle to form sludge deposits; create floating debris; produce odors; create toxic concentrations harmful to human, animal, plant and aquatic life; or create conditions capable of producing undesirable aquatic life. All discharges must meet water quality standards.

Rule: ARM 17.30.637, 1002-1003, 1030 and 1342

NONDEGRADATION REVIEW

The state's nondegradation policy outlines three levels of water protection, stipulating what level of degradation, if any, is allowed in each level. For waters classified as *outstanding resource waters*, (see p. 186) the DEQ may not grant an authorization to degrade. The state may authorize degradation of *high quality waters* up to but not exceeding water quality standards. For *other waters* not classified as outstanding resource waters or high quality waters, there is no nondegradation review requirement, but water quality standards and discharge permit conditions still apply.

1. Types of Activities Regulated

A person proposing an activity that may degrade *high quality waters* must 1) make a self-determination that the activity is nonsignificant using the standards in ARM 17.30.715 and 17.30.716, 2) receive a determination of nonsignificance from the Montana Department of Environmental Quality (DEQ) or, 3) if the activity is not within the definition of nonsignificant, petition the department for an authorization to degrade. For all activities that are licensed, permitted, approved or otherwise authorized by the DEQ, the department will make the determination whether the activity may cause degradation.

Statute: 75-5-303 and 317, MCA

Rule: ARM 17.30.701-708 and 715-716

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

2. Application Requirements

If a proposed activity will cause significant degradation of high quality waters and the applicant wishes to continue with the proposed activity, the DEQ will require the applicant to submit information necessary for the department to determine: 1) the degradation is necessary because there are no feasible modifications to the proposed project that would result in no degradation, 2) the proposed project will result in important economic or social development and the benefit of the development exceeds the costs to society of degrading high quality waters, 3) existing and anticipated use of state waters will be fully protected and 4) the least degrading water quality protection practices determined by the department to be economically, environmentally and technologically feasible will be fully implemented by the applicant prior to, during and after the proposed activity.

Statute: 75-5-303, MCA

Rule: ARM 17.30.706 and 707

3. Permitting Procedures

1) The department must review an Application for Determination of Significance and make its decision on the application within 60 days. If the department determines that the activity will cause degradation, and the applicant wishes to proceed with the activity as planned, then the applicant must complete an application to degrade state waters.

2) The department will issue a preliminary decision either authorizing or denying the degradation within 180 days of the receipt of a completed application. This time period may be extended by agreement of the applicant or whenever an Environmental Impact Statement is required to comply with the Montana Environmental Policy Act (see p. 116).

3) The DEQ will issue its preliminary decision and provide public notice and a 30-day comment period. The department will hold a hearing if it determines there is a significant degree of public interest.

4) Within 60 days after the close of the public comment period, the DEQ will issue a final decision accompanied by a statement of basis for the decision and, if applicable, a statement of conditions. An interested person[1] wishing to challenge the final decision may request a hearing before the Board of Environmental Review within 30 days of the department's decision.

Statute: 75-5-303, MCA

Rule: ARM 17.30.706 and 707

4. Additional Information

Outstanding Resource Waters

State surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995, or other state waters classified as outstanding by the Board of Environmental Review (BER) and approved by the Legislature, may be designated as *outstanding resource waters.*

The DEQ may not grant an authorization to degrade waters in this classification or allow a new or increased point source discharge that would result in a permanent change in water quality.

A person may petition the BER to classify waters as outstanding resource waters. In determining whether a water should be thus classified, the Board will consider 1) whether the waters have been designated as Wild and Scenic, 2) the presence of threatened or endangered species, 3) the presence of an outstanding recreational fishery, 4) whether the waters provide the only source of suitable water for a municipality or industry, 5) whether the waters provide the only source of suitable water for a domestic water supply, and 6) other factors that indicate outstanding environmental or economic factors.

The BER may reject or approve the petition. If the Board rejects the petition, it will specify in writing the reasons for the rejection and state the petition's deficiencies. If the Board accepts the petition, it will require the completion of an Environmental Impact Statement (EIS) (see MONTANA ENVIRONMENTAL POLICY ACT, p. 116) when the classification as an outstanding resource water may cause significant adverse environmental, social or economic impacts. The classification is not effective until approved by the Legislature.

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[1] Interested person is defined in statute as the applicant, or a person who has a real property, economic or watered right that is or may be directly and adversely affected by the department's decision, (75-5-103(13), MCA).

The Board may deny an accepted outstanding resource water petition if the criteria for establishing outstanding resource waters have not been met or if, based on the information available to the Board from the EIS or other sources, approving the outstanding resource waters classification petition would cause significant adverse environmental, social or economic impacts.

Statute: 75-5-315 through 317, MCA

WATER POLLUTION: FEDERAL - INDIAN RESERVATIONS

1. Types of Activities Regulated

Under the federal Clean Water Act, a person who discharges pollutants from a point source into waters of the United States must obtain a National Pollutant Discharge Elimination System (NPDES) permit. The U.S. Environmental Protection Agency (EPA) issues NPDES permits for discharges within the boundaries of Montana's seven Indian reservations, including discharges on fee lands.

The Clean Water Act also allows a tribal government to apply for *treatment-as-a-state status* and, upon approval by the EPA, to issue NPDES permits for dischargers on a reservation. No tribes in Montana have treatment-as-a-state status for the issuance of NPDES permits. However the Fort Peck Tribes and and the Confederated Salish and Kootenai Tribes do have approved water quality standards that govern permit limits on the Fort Peck and Flathead Reservations.

Statute: 33 USC 1251 *et seq.*, (federal Water Pollution Control Act)

Contact: U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

CONFEDERATED SALISH AND KOOTENAI TRIBES (see APPENDIX 5 for contact information)

FORT PECK TRIBES (see APPENDIX 5 for contact information)

WATER WELLS

1. Types of Activities Regulated

All wells must be drilled by a water well contractor, water well driller, or monitoring well constructor licensed by the Board of Water Well Contractors (BWWC) or by a person

who has obtained a permit from the BWWC to drill a well on their own land for agricultural or residential use.

Water well contractors and drillers must prepare a well log report form for each well drilled within 60 days after completion of the well.

Wells drilled by individuals for private use must conform to the minimum construction standards set by the BWWC. See also WATER APPROPRIATIONS - GROUND WATER, p. 173.

Statute: 37-43-101 *et seq.*, MCA

Rule: ARM 36.21.634 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division office in Helena; or local Water Resources Regional Offices located in Helena, Missoula, Kalispell, Havre, Glasgow, Billings, Lewistown and Bozeman (see APPENDIX 2)

BOARD OF WATER WELL CONTRACTORS

2. Application Requirements

A person planning the drilling, making, construction, alteration or rehabilitation of one or more water or monitoring wells for underground water must file a license application with the BWWC. The application must include verification of one or more years in the water well or monitoring field or equivalent education, experience or both.

Individuals applying for a permit to drill a well on their own property must show interest in the land on which the well will be constructed and the method of construction to be used. Permits are often issued the same day if the application is complete.

3. Permitting Procedures

Water well driller and monitoring well constructor license applications are reviewed for completeness by the DNRC. Once the application is reviewed, then an exam may be taken at a DNRC office in Helena or at the Water Resources Division regional offices. A bond or its equivalent must be posted by water well contractors and monitoring well constructors. Licenses are issued when the exam is passed and any required bonds are submitted.

Rule: ARM: 36.21.402 *et seq.*

4. **Fees**

A. There is a fee of $35 for filing a Notice of Completion.

B. Driller's license application and license renewal fees are:

Category	**Application Fee**	**Renewal Fee**	**Dates Valid**
Water Well Contractor	$300	$250	July 1 - June 30
Water Well Driller	$250	$150	July 1 - June 30
Monitoring Well Constructor	$300	$250	July 1 - June 30

C. There is no fee for filing the well log report form. There is no licensing fee for drilling a well on one's own property.

Rule: ARM 36.12.103 and 36.21.415

WEATHER MODIFICATION

1. Types of Activities Regulated

A license and permit from the Montana Department of Natural Resources and Conservation (DNRC) are required to engage in weather modification and control activities. License and permit forms are available from the department.

Statute: 85-3-101 through 401, MCA

Rule: ARM 36.20.101-401

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Management Bureau

2. Application Requirements

A. License

An applicant for a weather modification license must demonstrate competence in the field of meteorology and complete an application form available from the Water Resources Division of the DNRC. A license expires at the end of the calendar year. Qualified licensees may apply for a renewal.

B. Permit

A person holding a valid weather modification license must receive a permit before engaging in actual weather modification and control activities. Separate permits are required for each operation. A permit applicant must also file a notice of intention. The notice must include the applicant's name and address; the nature, purpose and objective of the intended operation and the person or organization on whose behalf the operation will be conducted; the approximate time during which the operation will be conducted; the area affected; and the materials and methods that will be used. The DNRC must publish the notice at least once a week for two consecutive weeks in a newspaper having general circulation in the affected county(ies).

Statute: 85-3-201 through 210, MCA

3. **Permitting Procedures**

A. License

Information provided in the license applications is corroborated by the DNRC. The DNRC then approves or denies the application based upon the statutory criteria.

B. Permit

Permit applications must be submitted at least 180 days prior to the date the weather modification operation is scheduled to begin. If the operation is new, the applicant is advised to consult with the DNRC prior to submitting a permit application. Once received, the application is evaluated, and an Environmental Impact Statement (EIS) (see MONTANA ENVIRONMENTAL POLICY ACT, p. 116) must be prepared by the DNRC. A hearing may be required at the applicant's expense. The DNRC may approve, approve with conditions, or reject an application based on the criteria described below.

Statute: 85-3-206, MCA

Rule: ARM: 36.20.301

4. **Fees**

A. The fee for a license or license renewal to conduct weather modification operations is $100.

B. The fee for a permit to conduct weather modification operations is one percent of the estimated cost of the operation.

C. The applicant must reimburse the DNRC for all costs associated with any public meetings or hearings, preparing the report and preparing the EIS.

Statute: 85-3-202(1), 205, 206(2d) and 212, MCA

5. **Criteria**

A. License

Competence in the field of weather modification and meteorology must be demonstrated by the applicant's experience and education or certification by a

nationally recognized weather modification professional society, agency, or organization. A minimum of one year of experience in management and control of a weather modification operation is required.

B. Permit

The following approval criteria must be met.

1) the person in charge is licensed to conduct weather modification activities in Montana;
2) the project has been properly noticed;
3) the project has been insured in a manner that would protect victims of any unintended weather modification results;
4) the fees have been or will be paid, in accordance with the statute; and
5) the project is determined by the DNRC to be for the general welfare and public good.

Statute: 85-3-206, MCA

6. **Additional Information**

On petition of county residents, a county may establish a weather modification authority to engage in weather modification activities.

Statute: 85-3-401 *et seq.*, MCA

APPENDIX 1: MONTANA STATE AGENCIES

DEPARTMENT OF AGRICULTURE

Director, W. Ralph Peck
Agriculture and Livestock Building
303 North Roberts
P.O. Box 200201
Helena, MT 59620
(406) 444-3144
http://agr.state.mt.us

Agricultural Sciences Division

Administrator, Greg Ames
(406) 444-2944

Aerial pesticide applications
Anhydrous ammonia dealers
Commercial feed
Fertilizer registration
Nurseries
Pesticide applications
Pesticide registration
Quarantines
Seed dealers, cleaners and labelers

DEPARTMENT OF COMMERCE

Director, Mark Simonich
301 South Park (after July 2002)
P.O. Box 200501
Helena, MT 59626
http://commerce.state.mt.us

Community Development Division

Administrator, Newell Anderson
301 South Park
P.O. Box 200523
(406) 444-4480 until July 1, 2002
(406) 841-2772 after July 1, 2002

Community Technical Assistance Program
Program Manager, Gavin Anderson
(406) 444-4479 until July 1, 2002
(406) 841-2775 after July 1, 2002

Subdivisions

Hard-Rock Mining Impact Board
Administrative Officer, Carol Ferguson
(406) 444-4478 until July 1, 2002
(406) 841-2774 after July 1, 2002

Hard-rock mining

DEPARTMENT OF ENVIRONMENTAL QUALITY

Director, Jan Sensibaugh
1520 East Sixth Ave.
P.O. Box 200901
Helena, MT 59620-0901
(406) 444-2544
http://deq.state.mt.us

Community Right to Know

Permitting and Compliance Division
Administrator, Steve Welch
1520 East Sixth Ave.
P.O. Box 200901
(406) 444-4323

Air and Waste Management Bureau
Chief, Don Vidrine
Ph: (406) 444-3490 Fax: (406) 444-1499

Air quality permits
Asbestos control
Burning permits
Hazardous and medical waste incinerators
Hazardous waste

Community Services Bureau
Chief, Jon Dilliard
Ph: (406) 444-4400

Landfills
Medical waste disposal
Motor vehicle wrecking facilities
Public sewer systems
Public water supplies
Roadside junkyards
Septic tank, cesspool and privy cleaning
Solid waste

Environmental Management Bureau
Chief, Warren McCullough
(406) 444-4953

Major Facility Siting Act
Hard-rock mining
Milling/reprocessing
Pipelines
Small miner's exemption
Wind energy

Industrial and Energy Minerals Bureau
Chief, Neil Harrington
(406) 444-4970

Coal and uranium mining
Gravel pits
Opencut mining

Water Protection Bureau
Chief, Bonnie Lovelace
(406) 444-3080

308 and 318 authorizations
401 permitting
Animal confinement facilities
Dairies
Feedlots
MPDES permits
MGWPCS permits
Nondegradation review
Oil and gas wells
Outstanding resource waters
Sanitarians
Slaughterhouses
Storm water permits

Subdivisions, sanitary restrictions
Water pollution discharge permits

Planning, Prevention and Assistance Division
Administrator, Art Compton
1520 East Sixth Ave.
(406) 444-6697

Pollution Prevention Bureau
Chief, Louise Moore
(406) 444-4643

Source water protection
Wellhead protection

Resource Protection Planning Bureau
Chief, Bob Raisch
(406) 444-6697

Water quality standards

Technical and Financial Assistance Bureau
Chief, Tom Livers
(406) 444-6697

Radon control

Remediation Division
Administrator, Sandi Olsen
2209 Phoenix Ave.
P.O. Box 200901
(406) 444-1420

Hazardous Waste Site Cleanup Bureau
Chief, Mike Trombetta
(406) 444-5977

Contaminated site cleanup
Superfund

Technical Services Bureau
Chief, David Scrimm
2209 Phoenix Avenue
(406) 444-1420

Underground storage tanks
Underground storage tanks, release cleanup

ENVIRONMENTAL QUALITY COUNCIL

Legislative Branch, Legislative Environmental Policy Office
Legislative Environmental Analyst, Todd Everts
State Capitol
P.O. Box 201704
Helena, MT 59620
Ph: (406) 444-3742 Fax: (406) 444-3971 or 444-3036
http://leg.state.mt.us/services/lepo

Environmental Impact Statements
Environmental Assessments

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Director, Jeff Hagener
1420 East Sixth Ave.
P.O. Box 200701
Helena, MT 59620
(406) 444-3186
http://fwp.state.mt.us

Registration of experimental use pesticides
Recreational use of rivers
Smith River float permits
State parks

Administration and Finance Division
Administrator, Dave Mott
(406) 444-3109

Fish and game licenses
Special permits and licenses

Enforcement Division
Administrator, Beate Galda
(406) 444-2452

Alternative livestock ranches
Boating
Captive breeding of raptors
Commercial fishing
Commercial seining
Field trial permit
Fish ponds
Fishing, hunting, trapping regulations
Fur dealers
Game, game bird or fur farms
Ice fishing shelters
Migratory birds
Off-highway vehicles
Roadside menageries
Shooting preserves
Shooting preserve bird tags
Snare trapping
Snowmobiles
Taxidermy
Wild bird permits
Wild animal menageries

Field Services Division
Administrator
1400 Eighth Ave.
Ph: (406) 444-2602 Fax: (406) 841-4004

Conservation easements

Fisheries Division
Administrator, Chris Hunter
1420 East Sixth Ave.
(406) 444-2449

Commercial fishing
Fishing derbies
Habitat preservation
Importation of fish or fish eggs
Nongame and endangered fish species

River recreation
Salmon eggs
Seining
Streambed protection
Taking fish for scientific purposes

Wildlife Division
Administrator, Don Childress
1420 East Sixth Ave.
(406) 444-2612

Baits on DFWP lands
Game preserves
Nongame and endangered wildlife species
Taking game for scientific purposes
Wild bird permits

MONTANA HISTORICAL SOCIETY

Director, Arnold Olsen
225 North Roberts
P.O. Box 201201
Helena, MT 59620
Ph: (406) 444-4706
http://his.state.mt.us

State Historic Preservation Office
Preservation Officer, Mark Baumler
1410 Eighth Ave.
P.O. Box 201202
Ph: (406) 444-7717 Fax: (406) 444-6575

Antiquities permits
Burial site preservation
Heritage site preservation

DEPARTMENT OF JUSTICE

Attorney General, Mike McGrath
215 North Sanders, 3rd Floor
P.O. Box 201401
Helena, MT 59620
(406) 444-2026
http://doj.state.mt.us

Division of Criminal Investigation
Administrator, Mike Batista
303 North Roberts, Scott Hart Building
P.O. Box 201417
(406) 444-3874

Fire Prevention and Investigation Bureau
State Fire Marshall, Terry Phillips
(406) 444-2050

Aboveground storage tanks

Motor Vehicle Division
Administrator, Dean Roberts
303 North Roberts, Scott Hart Building
P.O. Box 201430
(406) 444-4536

Title and Registration Bureau
Chief, Karin Slaughtner
1032 Buckskin Dr.
Deer Lodge, MT 59722
Ph: (406) 846-6000 Fax: (406) 846-6039

Motor vehicle wrecking facility quarterly reports

DEPARTMENT OF LABOR AND INDUSTRY

Commissioner, Wendy Keating
1327 Lockey, Walt Sullivan Building
P.O. Box 1728
Helena, MT 59624
(406) 444-9091
http://dli.state.mt.us

Business Standards Division
Administrator, Jim Brown
301 South Park
P.O. Box 200517
Helena, MT 59620
(406) 841-2040

Building Codes Bureau
Chief, Bill Jellison
301 South Park
(406) 841-2045

Building codes

Business and Occupational Licensing Bureau
Chief, Brenda St. Clair
(406) 841-2302

Board of Outfitters
Executive Director, Henry Worsech
(406) 841-2370

Outfitters and guides

Employment Relations Division
1805 Prospect
P.O. Box 8011

Safety Bureau
Chief, John Maloney
USF&G Building
1625 11th Ave.
P.O. Box 1728
(406) 444-1605

Coal mining safety regulations
Hard-rock mining safety regulations
Indoor emissions
Occupational noise
Opencut mining safety regulations

DEPARTMENT OF LIVESTOCK

Executive Officer, Marc Bridges
Scott Hart Building, 3rd Floor
310 Roberts
P.O. 202001
Helena, MT 59620
(406) 444-7323
http://www.liv.state.mt.us

Animal Health Division
Administrator, Arnold Gertonson, DVM
Scott Hart Building, 3rd Floor
(406) 444-2043

Alternative livestock ranches (game farms)

Meat and Poultry Inspection Bureau
Chief, Carol Olmstead
Scott Hart Building, 3rd Floor
(406) 444-5202

Slaughterhouses and meatpacking plants

Milk and Egg Inspection Bureau
Chief, Todd Gahagan, R.S.
Scott Hart Building, 3rd Floor
(406) 444-9761

Dairies

Brands Enforcement Division
Administrator, Jack Wiseman
Scott Hart Building, Second Floor
(406) 444-2045

Alternative livestock ranches (game farms)
Predator control

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Director, Bud Clinch
USF&G Building
1625 Eleventh Ave.
P.O. Box 201601
Helena, MT 59620
Ph: (406) 444-2074 Fax: (406) 444-2684
http://www.dnrc.state.mt.us

Conservation and Resource Development Division
Administrator, Ray Beck
(406) 444-6667

Conservation Districts Bureau
Chief, Steve Schmitz
(406) 444-6691

Conservation districts
Stream banks, stream beds

Forestry Division
Administrator, Don Artley
2705 Spurgin Road
Missoula, MT 59804
Ph: (406) 542-4300 Fax: (406) 542-4217

Fire and Aviation Management Bureau
Chief, Tim Murphy
(406) 542-4304

Burning permits

Service Forestry Bureau
Chief, Chris Tootell
(406) 542-4303

Best Management Practices
Hazard reduction
Slash disposal
Streamside management zones

Oil and Gas Conservation Division
Executive Secretary, Terry Perrigo
Ph: (406) 444-6675
See also APPENDIX 2: State agency regional offices

Geophysical exploration
Oil and gas development

Trust Land Management Division
Administrator, Tom Schultz
USF&G Building
1625 Eleventh Ave.
(406) 444-2074

Agriculture and Grazing Management Bureau
Chief, Kevin Chappell
(406) 444-3847

Cropland leases on state land
Grazing leases on state land

Forest Management Bureau
Chief, Pete Van Sickle
2705 Spurgin Road
(406) 542-4300

Timber conservation license
Timber removal
Timber sales

Minerals Management Bureau
Chief, Monte Mason
USF&G Building
(406) 444-3843

Mineral leases on state land
Underground storage of natural gas

Special Use Management Bureau
Chief, Clive Rooney
(406) 444-3844

Cabin sites
Easements on state land
Exchanges of state land
Hydroelectric sites
Island Parks
Leases of state land
Land use licenses
Natural areas
Recreational use licenses
Sales of state land

<u>Water Resources Division</u>
Administrator, Jack Stults
48 N. Last Chance Gulch
(406) 444-6601

State Water Projects Bureau
Chief, Glen McDonald
(406) 444-6646

State water projects - canals, dams, hydropower

Water Management Bureau
Chief, Richard Moy
(406) 444-6637

Water planning
Weather modification

Water Operations Bureau
Chief, Laurence Siroky
(406) 444-0860

Dams safety program
Floodplain regulation
Lakeshores
Water measurement program
Water well construction standards

Water Rights Bureau
Chief, Curt Martin
(406) 444-6610

Water rights

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Director, Gail Gray
111 North Sanders
P.O. Box 4210
Helena, MT 59604
(406) 444-5622
http://www.dphhs.state.mt.us

Health Policy and Services Division
Administrator, Maggie Bullock
Cogswell Building, 1400 Broadway
(406) 444-4141

Communicable Disease Control and Prevention Bureau
Chief, Mr. Terry Krantz
(406) 444-4735

Communicable Disease and Epidemiology Section
Supervisor, Todd Damrow
(406) 444-3986

Possession of wild animals

Food and Consumer Safety Section
Supervisor, Howard Reid
Ph: (406) 444-2408 Fax: (406) 444-4135

Trailer courts, camp grounds, work and youth camps

Quality Assurance Division
Administrator, Mary Dalton
2401 Colonial Dr.
(406) 444-5401

Licensure Bureau
Chief, Roy Kemp
(406) 444-2868

Radiation control
Radioactive waste d isposal

DEPARTMENT OF PUBLIC SERVICE REGULATION

Chair, Gary Feland
1701 Prospect Ave., Vista Building
P.O. Box 202601
Helena, MT 59620
Ph: (406) 444-6199 Fax: (406) 444-7618
http://www.psc.state.mt.us

Utility Division
Administrator, David Hoffman
(406) 444-6199

Electricity and gas suppliers
Motor carrier regulation

Pipelines
Utilities

SECRETARY OF STATE

Bob Brown
State Capitol, Room 225
P.O. Box 202801
Helena, MT 59620
Ph: (406) 444-2034 Fax: (406) 444-3976
http://www.state.mt.us/sos

Business Services Bureau
Customer Service Hotline
(406) 444-3665

Certificate of authority (oil and gas)
Surety bonds

DEPARTMENT OF TRANSPORTATION

Director, Marvin Dye
2701 Prospect Ave.
P.O. Box 201001
Helena, MT 59620-1001
Ph: (406) 444-6201 Fax: (406) 444-7643
http://www.mdt.state.mt.us

Aeronautics Division
Administrator, Debbie Alke
2630 Airport Road
(406) 444-2506

Aerial pesticide application

Engineering Division
Administrator, Joel Marshik
2701 Prospect Ave.
(406) 444-6206

Right-of-Way Bureau
Chief, John Horton
(406) 444-6063

Easements, encroachments
Roadside junkyards

Maintenance Division
Administrator, D. John Blacker
2701 Prospect Ave.
(406) 444-7220

Area Maintenance Bureaus
(see APPENDIX 2)

Approach permits
Highway advertising permits
Utility permits

Motor Carrier Services Division
Administrator, Drew Livesay
2701 Prospect Ave.
(406) 444-6130

Motor carrier regulation, interstate

APPENDIX 2: STATE AGENCY REGIONAL OFFICES

DEPARTMENT OF AGRICULTURE

Billings:
321 South 24th Street West
Billings, MT 59102
(406) 652-3615

Bozeman:
234 East Babcock, Suite I
Bozeman, MT 59715
(406) 587-9067

Glasgow:
P.O. Box 1054
Glasgow, MT 59230
(406) 228-9510

Great Falls:
750 6th Street Southwest, Suite 207
Great Falls, MT 59404
(406) 761-0926

Kalispell:
P.O. Box 7044
Kalispell, MT 59904
(406) 257-6000

Missoula:
2681 Palmer Road, Suite G
Missoula, MT 59808
(406) 329-1340

Polson:
340-3 Courville Trail
Polson, MT 59860
(406) 675-4060

Saco:
P.O. Box 315
Saco, MT 59261
(406) 527-3367

DEPARTMENT OF ENVIRONMENTAL QUALITY

Billings:
Airport Industrial Park IP-9
1371 Rimtop Dr.
Billlings, MT 59105
(406) 247-4452

Kalispell: 109 Cooperative Way, Suite 105
59901
Ph: (406) 755-8985

Missoula: 301 West Alder
Missoula, MT 59802
(406) 523-4907

Ronan: 1026 Round Butte Rd.
Ronan, MT 59864
(406) 676-3567

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Billings: Region 5
2300 Lake Elmo Drive
Billings, MT 59105
(406) 247-2940

Bozeman: Region 3
1400 South 19th
Bozeman, MT 59718
(406) 994-4042

Butte: Area Office
1820 Meadowlark Lane
Butte, MT 59701
(406) 494-1953

Glasgow: Region 6
RR 1-4210
Glasgow, MT 59230
(406) 228-3700

Great Falls: Region 4
4600 Giant Springs Road
P.O. Box 6610
Great Falls, MT 59405
(406) 454-5840

Havre: Area Office
2165 Highway 2 E.
Havre, MT 59501
(406) 265-6177

Helena: Area Office
930 Custer Ave. W.
Helena, MT 59620
(406) 444-4720

Kalispell: Region 1
490 North Meridian
Kalispell, MT 59901
(406) 752-5501

Miles City: Region 7
P.O. Box 1630
Miles City, MT 59301
(406) 232-0900

Missoula: Region 2
3201 Spurgin Road
Missoula, MT 59804
(406) 542-5500

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

OIL AND GAS CONSERVATION DIVISION FIELD OFFICES

Billings: Division Headquarters Office
Administrator, Tom Richmond
2535 St. Johns Ave.
Billings, MT 59102
(406) 656-0040

Glendive: Darrell Hystad, Field Inspector
400 Ryan Dr.
Glendive, MT 59330
(406) 377-4325

Plentywood: Robert Schmidt, Field Inspector
Box 225
Medicine Lake, MT 59247
(406) 789-2341

Roundup: Alan Olson, Field Inspector
18 Halfbreed Creek Road
Roundup, MT 59072
(406) 323-3341

Shelby: Northern District Office
Gary Klotz, Field Inspector Supervisor
P.O. Box 690
Shelby, MT 59474
(406) 434-2422

FORESTRY AND TRUST LAND MANAGEMENT FIELD OFFICES

Anaconda: Unit Office
7916 Highway 1 West
Anaconda, MT 59711
(406) 563-6078

Billings: Southern Land Office
Airport Industrial Park
Billings, MT 59105
(406) 247-4400

Bozeman: Unit Office
151 Evergreen, Suite C
Bozeman, MT 59715
(406) 586-5243

Conrad: Unit Office
602 Main
P.O. Box 961
Conrad, MT 59425
(406) 278-7869

Dillon: Unit Office
730 North MT Street
Dillon, MT 59725
(406) 683-6305

Glasgow: Unit Office
224 Sixth Street South
P.O. Box 1007
Glasgow, MT 59230
(406) 228-2430

Greenough: Clearwater Unit Office
48455 North Sperry Grade Road
P.O. Box 388
Greenough, MT 59836
(406) 244-5857

Hamilton:
Unit Office
210 Sixth Ave.
P.O. Box 713
Hamilton, MT 59840
(406) 363-1585

Havre:
Unit Office
P.O. Box 868
Havre, MT 59501
(406) 265-5236

Helena:
Central Land Office
8001 North MT
Helena, MT 59602
(406) 444-3633

Kalispell:
Northwestern Land Office
2250 Highway 93 North
Kalispell, MT 59901
(406) 751-2240

Lewistown:
Northeastern Land Office
USDA Building
613 N. E. Main Street, Suite E
P.O. Box 1021
Lewistown, MT 59457
(406) 538-7789

Libby:
Unit Office
14096 U.S. Highway 37
Libby, MT 59923
(406) 293-2711

Miles City:
Eastern Land Office
321 Main
P.O. Box 1794
Miles City, MT 59301
(406) 232-2034

Missoula:
Southwestern Land Office
1401 27th Ave.
Missoula, MT 59801
(406) 542-4200

Missoula:
Unit Office
1500 Tower St.
Missoula, MT 59801
(406) 542-4201

Plains:
Unit Office
124 Airport Road
P.O. Box 219
Plains, MT 59859
(406) 826-3851

Olney:
Stillwater Unit Office
Stillwater State Forest
P.O. Box 164
Olney, MT 59927
(406) 881-2371

Swan River:
Unit Office
Swan River State Forest
Highway 83 South
Swan Lake, MT 59911
(406) 754-2301

WATER RESOURCES DIVISION REGIONAL OFFICES

Billings:
Airport Industrial Park
1537 Rimtop Dr.
Billings, MT59105
(406) 247-4415

Bozeman:
151 Evergreen Dr., Suite C
Bozeman, MT 59715
(406) 586-3136

Glasgow:
222 6th St. South
P.O. Box 1269
Glasgow, MT 59230
(406) 228-2561

Havre:
210 Sixth Ave.
P.O. Box 1828
Havre, MT 59501
(406) 265-5516

Helena:
21 N. Last Chance Gulch
P.O. Box 201601
Helena, MT 59620
(406) 449-0944

Kalispell:
109 Cooperative Way, Suite 110
Kalispell, MT 59901
(406) 752-2288

Lewistown:
613 NE Main St., Suite E
Lewistown, MT 59457
(406) 538-7459

Missoula:
Town & County Shopping Center
1610 S. 3rd St. West, Suite 103
P.O. Box 5004
Missoula, MT 59806
(406) 721-4284

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Food and Consumer Safety Bureau

Billings:
Airport Industrial Park IP-9
1371 Rimtop Dr.
Billings, MT 59105
(406) 247-4449

DEPARTMENT OF TRANSPORTATION

DISTRICT AND AREA FIELD OFFICES

Billings:
424 Morey
P.O. Box 20437
Billings, MT 59104-0437
(406) 252-4138

Bozeman:
907 N. Rouse
P.O. Box 1110
Bozeman, MT 59771-1110
(406) 586-9562

Butte:	3751 Wynne P.O. Box 3068 Butte, MT 59702-3068 (406) 494-9600
Glendive:	503 North River Ave. P.O. Box 890 Glendive, MT 59330-0890 (406) 377-5296
Great Falls:	200 Smelter Ave. NE P.O. Box 1359 Great Falls, MT 59403-1359 (406) 454-5880
Havre:	1671 Highway 2 West P.O. Box 580 Havre, MT 59501-0580 (406) 265-6821
Kalispell:	85 5th Ave. East North P.O. Box 7308 Kalispell, MT 59903-0308 (406) 751-2000
Lewistown:	1620 Airport Rd. P.O. Box 491 Lewistown, MT 59457-0491 (406) 538-8731
Miles City:	217 N. 4th P.O. Box 460 Miles City, MT 59301-0460 (406) 232-1093
Missoula:	2100 W. Broadway P.O. Box 7039 Missoula, MT 59807-7039 (406) 523-5800
Wolf Point:	Highway 25 East, HC 31 Box 3000 Wolf Point, MT 59201-9802 (406) 653-1050

APPENDIX 3: LOCAL PERMITTING AUTHORITIES

CONSERVATION and GRAZING DISTRICTS

Activities that affect stream banks or beds on private land (310 permit)

CONSERVATION DISTRICT CONTACTS

Beaverhead District
Contact: Danette Watson
420 Barrett Street
Dillon, MT 59725
(406) 683-3802
danette.watson@mt.usda.gov

Broadwater District
Contact: Charlotte Lewis
415 South Front Street
Townsend, MT 59644
(406) 266-3146
clewis@mt.nrcs.usda.gov

Big Horn District
Contact: Gloria Menke
724 West Third Street
Hardin, MT 59034
(406) 665-3442
gmenke@mt.usda.gov

Carbon District
Contact: Sandra Cooper
P.O. Box 510
Joliet, MT 59041
(406) 962-3641
sandra-cooper@mt.nacdnet.org

Big Sandy District
Contact: Sonia Silvan
P.O. Box 111
Big Sandy, MT 59520
(406) 378-2298
ssilvan@mt.usda.gov

Carter County District
Contact: Georgia Bruski
P.O. Box 313
Ekalaka, MT 59324
(406) 775-6355
gbruski@mt.nrcs.usda.gov

Bitterroot District
Contact: Julie Ralston
1709 North First Street
Hamilton, MT 59840
(406) 363-5010
bcd@bitterroot.net

Cascade County District
Contact: Gayla Wortman
12-Third St. Northwest, Upper Level
Great Falls, MT 59404
(406) 727-3603
cccd@mcn.net

Blaine County District
Contact: Shannon Sattleen
P.O. Box 189
Chinook, MT 59523
(406) 357-2320
ssattleen@mt.nrcs.usda.gov

Chouteau County District
Contact: Julia Bitz
P.O. Box 309
Fort Benton, MT 59442
(406) 622-5627
julia-bitz@mt.nacdnet.org

Custer County District
Contact: DeAnna Dreyer
3120 Valley Drive East
Miles City, MT 59301
(406) 232-7905
ddreyer@mt.nrcs.usda.gov

Daniels County District
Contact: Dionne Ferestad
P.O. Box 605
Scobey, MT 59263
(406) 487-2872
dferestad@mt.nrcs.usda.gov

Dawson County District
Contact: Deniel Campbell
102 Fir Street FP
Glendive, MT 59330
(406) 365-5565
deniel.campbell@mt.usda.gov

Deer Lodge Valley District
Contact: Susie Johnson
1 Hollenback Road
Deer Lodge, MT 59722
(406) 846-1703
sjohnson@mt.nrcs.usda.gov

E. Sanders County District
Contact: Patsy Meredith
102 Highway 200 West
Plains, MT 59859
(406) 826-3701
pmeredith@mt.nrcs.usda.gov

Fergus County District
Contact: Shonny Nordland
211 McKinley, Suite 3
Lewistown, MT 59457
(406) 538-7401
shonny-nordlund@mt.nacdnet.org

Flathead District
Contact: Cathy Jones
30 Lower Valley Road
Kalispell, MT 59901
(406) 752-4220
fcd@digisys.net

Gallatin District
Contact: Michelle LeBeau
3710 Fallon, #B
Bozeman, MT 59718
(406) 522-4011
Michelle.LeBeau@mt.usda.gov

Garfield County District
Contact: Jodi Pierson
P.O. Box 369
Jordan, MT 59337
(406) 557-2740
jpierson@mt.nrcs.usda.gov

Glacier County District
Contact: Gloria Mason
601 West Main Street, Suite 14
Cut Bank, MT 59427
(406) 873-5752
gmason@mt.nrcs.usda.gov

Granite District
Contact: Karen Peterson
P.O. Box 926
Philipsburg, MT 59858
(406) 859-3607
karen.peterson@mt.usda.gov

Green Mountain District
Contact: Jean Dunn
P.O. Box 1329
Trout Creek, MT 59874
(406) 827-4833
gmcd@blackfoot.net

Hill County District
Contact: Pam Grub
206 25th Ave. West
Havre, MT 59501
(406) 265-6792
pam-grubb@mt.nacdnet.org

Jefferson Valley District
Contact: Kris Hugulet
P.O Box 890
Whitehall, MT 59759
(406) 287-7875
jvmh@in-tch.com

Judith Basin District
Contact: Teresa Wilhelms
P.O. Box 386
Stanford, MT 59479
(406) 566-2311
jbcd@mt.nacdnet.org

Lake County District
Contact: Chris Malgren
45358 Highway 93 South
Ronan, MT 59864
(406) 676-2842
cmalgren@ronan.net

Lewis and Clark County District
Contact: Chris Evans
790 Colleen Street
Helena, MT 59601
(406) 449-5278
chris-evans@mt.nacdnet.org

Liberty County District
Contact: Marlene Moon
P.O. Box 669
Chester, MT 59522
(406) 759-5791
marlene-moon@mt.nacdnet.org

Lincoln District
Contact: Vicki McGuire
655 Highway 93 North
Eureka, MT 59917
(406) 296-2233
lcdvicki@libby.org

Little Beaver District
Contact: Kathy Sikorski
P.O. Box 917
Baker, MT 59313
(406) 778-2217
ksikorski@mt.nrcs.usda.gov

Lower Musselshell District
Contact: Alice Wolff
109 Railroad Avenue East
Roundup, MT 59072
(406) 323-2103
alice-wolff@mt.macdnet.org

Madison District
Contact: District Coordinator
P.O. Box 606
Ennis, MT 59729
(406) 682-7289

McCone District
Contact: Evelyn Kondelik
P.O. Box 276
Circle, MT 59215
(406) 485-2744
ekondelik@mt.nrcs.usda.gov

Meagher County District
Contact: Donna Burns
P.O. Box 589
White Sulphur Springs, MT 59645 Ph:
(406) 547-3633
donna-burns@mt.nacdnet.org

Mile High District
Contact: Kris Hugulet
P.O Box 890
Whitehall, MT 59759
(406) 287-7875
jvmh@in-tch.com

Mineral County District
Contact: Dave Brink
P.O. Box 730
Superior, MT 59872
(406) 822-3545
patterso@blackfoot.net

Missoula County District
Contact: Tara Comfort
3550 Mullan Road, Suite 106
Missoula, MT 59808
(406) 829-3395
mslacd@MT.com

North Powell District
Contact: Susie Johnson
1 Hollenback Road
Deer Lodge, MT 59722
(406) 846-1703
sjohnson@mt.nrcs.usda.gov

Park District
Contact: Amy Miller
5242 Highway 89 South
Livingston, MT 59047
(406) 222-2899
amy-miller@mt.nacdnet.org

Petroleum County District
Contact: Tasha Keith
P.O. Box 118
Winnett, MT 59087
(406) 429-6646
tasha.keith@mt.usda.gov

Phillips District
Contact: Diane Jones
HC 72, Box 7615
Malta, MT 59538
(406) 654-1334
djones@mt.nrcs.usda.gov

Pondera County District
Contact: Connie Hanson
Pondera Village Shopping Center
Conrad, MT 59425
(406) 278-3922
chanson@mt.nrcs.usda.gov

Powder River District
Contact: Twila Jo Talcott
P.O. Box 180
Broadus, MT 59317
(406) 436-2321
twilajo@mtbroadus.fsc.usda.gov

Prairie County District
Contact: Sandy Brown
P.O. Box 622
Terry, MT 59349
(406) 635-5381
sbrown@mt.nrcs.usda.gov

Richland County District
Contact: Julie Goss
HCR 89, Box 5165A
Sidney, MT 59270
(406) 433-2103
julie.goss@mt.nrcs.usda.gov

Roosevelt County District
Contact: Joni Sherman
P.O. Box 517
Culbertson, MT 59218
(406) 787-5232
jsherman@mt.nrcs.usda.gov

Rosebud District
Contact: Tamara Kimball
P.O. Box 1200
Forsyth, MT 59327
(406) 356-7479
tami-kimball@mt.nacdnet.org

Ruby Valley District
Contact: Shirley Galovic
P.O. Box 295
Sheridan, MT 59749
(406) 842-5741
rvcd@3rivers.net

Sheridan County District
Contact: Thelma Williams
119 North Jackson
Plentywood, MT 59254
(406) 765-1801
twilliams@mt.nrcs.usda.gov

Stillwater District
Contact: Barbara Berry
P.O. Box 48
Columbus, MT 59019
(406) 322-5359
barbara-berry@mt.nacdnet.org

Sweet Grass County District
Contact: Coral Wilson
P.O. Box 749
Big Timber, MT 59011
(406) 932-5160
coral-wilson@mt.nacdnet.org

Teton County District
Contact: Amy Fry
Route 2, Box 240
Choteau, MT 59422
(406) 466-5722
afry@3rivers.net

Toole County District
Contact: Sara Shepard
1125 Oilfield Avenue
Shelby, MT 59474
(406) 434-5234
sara.shepard@mt.usda.gov

Treasure County District
Contact: Deitra Arneson
P.O. Box 288
Hysham, MT 59038
(406) 342-5524
dee-arneson@mt.nacdnet.org

Upper Musselshell District
Contact: Cheryl Miller
P.O. Box 201
Harlowton, MT 59036
(406) 632-5534
cheryl-miller@mt.nacdnet.org

Valley County District
Contact: Pat Johnson
54062 Hwy 2 West, Room 2
Glasgow, MT 59230
(406) 228-4321
valleycd@nemontel.net

Wibaux District
Contact: Renee Nelson
RR 1 Box 2064
Wibaux, MT 59353
(406) 796-2211
rnelson@mt.nrcs.usda.gov

Yellowstone District
Contact: LaVerne Ivie
1371 Rimtop Drive
Billings, MT 59105
(406) 247-4420
livie@state.mt.us

DISTRICT COURT

Mining right-of-way
Overhead lines

LOCAL GOVERNING BODIES: CITY OR TOWN COUNCILS OR BOARD OF COUNTY COMMISSIONERS

Airport zoning
Building codes
Burning permits
Floodway regulation
Highway excavations
Improvement districts
Lakeshore protection
Large scale mining developments
Mains, water and sewer
Mining claims
Oil and gas leases
Overhead lines
Stream preservation
Subdivision plat approval
Timber removal
Utility extensions
Zoning

LOCAL HEALTH OFFICIALS

Campgrounds
Dairies
Food service establishments
Solid waste disposal facilities
Subdivisions, sanitary restrictions
Tourist campgrounds
Trailer courts

APPENDIX 4: FEDERAL AGENCIES

U.S. DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Northern Region
200 East Broadway
P.O. Box 7669
Missoula, MT 59807
(406) 329-3511

Activities on Forest Service land
burning permits, grazing leases, mining

U.S. DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS

Helena: Federal Building
10 West 15th St., Suite 2200
Helena, MT 59626
(406) 441-1375

Billings: Building A, Suite 3
1629 Ave. D
Billings, MT 59102-3042
(406) 657-5910

Dams and reservoirs
Stream preservation, wetlands

U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Billings: Montana State Office
5001 Southgate Dr.
P.O. Box 36800
Billings, MT 59107
(406) 896-5011

Lewistown: Resource Area or Field Office
Airport Road
P.O. Box 1160
Lewistown, MT 59457
(406) 538-7461

Butte: Resource Area or Field Office
106 N. Parkmont Ave.
P.O. Box 3388
Butte, MT 59701
(406) 533-7600

Miles City: Resource Area or Field Office
111 Garryowen Road
Miles City, MT 59301-0940
(406) 233-2800

Grazing leases
Mine claim recording

FISH AND WILDLIFE SERVICE
Federal Building
100 North Park, Suite 320
Helena, MT 59601
(406) 449-5225

Law Enforcement
2900 4th Ave. N., Room 301
Billings, MT 59102
(406) 247-7366

Law Enforcement
P.O. Box 25486, DFC
Denver, CO 80225
(303) 236-7890

Captive breeding of raptors
Migratory birds
Threatened and endangered species
Wind energy

U.S. DEPARTMENT OF LABOR

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

2900 4th Ave. N., Suite 303
Billings, MT 59101
(406) 247-7494

Indoor emissions
Occupational noise

U.S. ENVIRONMENTAL PROTECTION AGENCY

Helena: Region VIII, Montana Office
10 West 15th St., Suite 3200
Helena, MT 59626
(406) 457-5000

Activities on tribal lands
Asbestos abatement
NPDES Permits
Pesticide registration
Underground injection wells

Denver: Regional Office
999 18th St., Suite 500
Denver, CO 80202-2466
(303) 312-6312

Radon information

U.S. FEDERAL ENERGY REGULATORY COMMISSION

Regional Office
101 SW Main St., Suite 905
Portland, Oregon 97204
(503) 944-6799

Hydroelectric sites

APPENDIX 5: TRIBAL GOVERNMENTS

CONFEDERATED SALISH AND KOOTENAI TRIBES
P.O. Box 278
Pablo, MT 59855
(406) 675-2700 ext. 1230

water quality standards on the Flathead Reservation

FORT PECK TRIBES
P.O. Box 1027
Poplar, MT 59255
(406) 768-5155

water quality standards on the Fort Peck Reservation

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